

A
TOUR TO LONDON:

O R,
NEW OBSERVATIONS

O N
E N G L A N D,
AND ITS INHABITANTS.

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OF ANTIQUARIES.

IN THREE VOLUMES.

VOLUME III.

D U B L I N :

Printed for J. EXSHAW, E. LYNCH, J. WILLIAMS,
R. MONCRIEFFE, T. WALKER, and
C. JENKIN. M,DCC,LXXII.

TO THE EDITOR

OF THE

NEW YORK OBSERVER

AND THE NEW YORK TRIBUNE

NEW YORK, N.Y.

DEAR SIR,



YOUR COPY OF THE

NEW YORK OBSERVER

AND THE NEW YORK TRIBUNE

NEW YORK, N.Y.

Yours faithfully,
J. W. L. Lynch, J. Williams,
R. M. L. Lynch, J. Williams,
C. J. Lynch, J. Williams.

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STREET 1400

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OBSERVATIONS

ON

ENGLAND.

MUSIC.

THE ancient Britons were reduced like the Gauls to the rude music of the bards, a sort of priests who made part of their sanguinary clergy. The successive conquests of the Saxons, Danes and, Normans must have been as unfavourable to music as to all other elegant arts. Mathew Paris informs us, that William the Bastard marching to the conquest of England, could get no better ballad to be sung before the decisive engagement, than that of Roland, composed in the age of Charlemagne.

The flourishing condition of England under the sons of the Conqueror was equally favourable to learning and to arts. King Richard, surnamed Cœur de Lion, was one of the first-rate poets and musicians of his age. History informs us that he had a very fine voice, and that he unbent himself from his military labours by singing songs, the tunes of which, as well as the words, were of his own composing. Being im-

prisoned by the Duke of Austria, in his return from the Holy Land, and afterwards delivered up to the emperor, who confined him to a jail unknown to all the world, he owed both liberty and life to his songs. The affair is thus related by Fauchet, from an old French chronicle, written in the reign of Philip Augustus about the beginning of the 13th century.

A year had passed since Richard's departure from the Holy Land, and the English, hearing no tidings of that prince, began to think of substituting a successor in his room. Blondel, master of his chapel, had discovered his sovereign's genius for music: for they often composed in concert. This employment, and the familiarity which it gave rise to, had inspired Blondel with the tenderest sentiments for Richard. Impatient at his absence, he set out for the Holy Land in the habit of a pilgrim, and he returned from thence, searching all the places through which the prince might possibly have passed, and following him by the scent, if I may be allowed the expression. Upon his arrival at the village of Loseinsten, in Germany, where the emperor had a castle, he privately inquired whether that castle had any inhabitants; when he was given to understand that a person of great importance, whom no body was allowed to visit, had been confined there a whole year. Blondel, conjecturing that this prisoner was the very prince whom he was in quest of, took a walk round the castle, and stopping at the foot of a tower with iron-grates, he began to sing one of the French songs which he had formerly composed in concert with Richard, and after the first couplets he listened whether any one answered. A voice thereupon continued the couplets, and finished the

the song. Blondel, being then certain of his discovery, returned without delay to England, where a negociation was set on foot with the emperor, which restored Richard to his kingdom.

Queen Elizabeth's taste for music caused that art to make some progress in England, by giving it some of the improvements which it had before received in Italy.

In the present age Handel, a German by birth, brought about the same revolution in England, which Lully the Italian had effected in France in the last century. Since that æra the English flatter themselves that they have a national music: but it is nothing more than a dialect of the German, as the latter is itself a dialect of the Italian.

The grand concert at St. Paul's for the benefit of the sons of the clergy, those of Vaux-hall and Ranelagh, and some private ones to which I was admitted, were said to be English compositions. The symphony was half German, half Italian: with regard to the vocal performance, Englishmen have assured me that the just accent of their Language was as much murdered by the performers, as that of the French tongue is mauled in the burlesque operas, which are imitations or parodies of the Italian.

The London opera is entirely Italian, both with regard to the words and the music; but is much less frequented than the other theatrical entertainments. No expence is spared to procure fine singers; œconomy is observed only in the articles of machines and dances. With regard to both of these it is not half so well supplied as the French comedy at Paris is at present.

In 1765 Metastasio's opera of Ezio was performed at the Hay-market: at one of the repre-

sentations I happened to be placed behind two English young ladies, who accompanied the symphony of the overture, were acquainted with the songs by means of their books, understood music as well as the Italian language, and consequently must have been prepared for the incongruities of the entertainment. In the first scene the part of the emperor Valentinian, which was played by a treble, did not much surprize them: such a voice appeared to them, no doubt well adapted to the part of a prince whose whole attention was engrossed by two bright eyes. Ætius made his appearance in the following scene, surrounded with the trophies and spoils of conquered nations; he began with an emphatical narrative of his battles and his victories. This character was represented by an accomplished Soprano, who had been brought out of Italy at a great expence, and whose part, supported by a most advantageous figure, made a ridiculous contrast with his voice.

This contrast had a surprising effect upon the young ladies. They indulged themselves in loud peals of laughter, which neither the eyes of the whole audience, nor the remonstrances of a brother or a husband, who sat next them, could either stop or even moderate. Constraint had no other effect but to increase this gay delirium, which was carried to the excess that some Roman ladies allowed themselves, whom Juvenal reproaches * with it. These laughs were renewed every time that Ætius made his appearance, but with greater moderation than at first

* Sat. vi. v. 69, taking the poet's words in the literal sense.

at the last scene there was no more than a sort of a recollection of the first impression. I was told by these laughing ladies, that it was the first time of their being at the opera ; and that whenever they had a mind to laugh, they would chuse this entertainment in preference to every other theatrical performance.

THE ART OF GARDENING.

The regular symmetry introduced into this science is, at present totally neglected by the English, and no longer to be seen even at the royal palaces, except at that of Hampton-court, where the Stuarts resided. The kings of the Hanover family have come nearer to London : George II. lived at Kensington ; the present king, who was brought up at Richmond, chuses to reside near that village, in a lodge situated in the midst of a fine garden, which formerly belonged to the Duke of Ormond, and is only surrounded with palisadoes. Charles II. had planted the gardens of Hampton-court ; and king William those of Kensington, according to the plans of the famous le Nostre. The last of these princes had added a grass plot, planted all over with yews and cypress-trees, and surrounded with arbours of the same sort, the whole cut with the utmost regularity ; but dismal as a church-yard. This grass-plot is still to be seen under the very windows of the palace, and is called king William's citadel.

This taste is no longer fashionable in England. In all the gardens that I have seen, I observed but one walk with rows of trees on each side, cut and laid out in the French manner : it is

preserved only as a specimen of the ill taste which now prevails in France.

The English taste is no less averse to our modern rows of lime-trees, whose tops, cut exactly level with sheers, form one long portico, which, to the eye, appears like joiners work painted green.

It is from wild and uncultivated woods, that is, from pure nature, that the present English have borrowed their models in gardening. The great avenues of their parks, kept in the best order, are roads cut through forests of trees of all sorts and sizes. The foot ways imitate the little paths of woods by their sinuosities, and their manner of intersecting and communicating with each other.

Art scarce displays itself at all in the different plantations which separate and conceal these walks: it lies in the choice of the trees and shrubs. Daisies and violets, irregularly scattered, form the borders of them. These flowers are succeeded by dwarf trees such as rose-buds, myrtle, Spanish broom, &c. The next rows are filled by cedars, pines from different parts of America, and other trees which rise only to a certain height, or whose growth is very slow: the last stage consists of trees capable of forming the highest and best furnished stems. By means of this arrangement these plantations exhibit the trees in their several ages, in the pyramidal form, that is to say the from most pleasing to the eye.

The paths which they separate, and by which they are bordered, are little winding alleys, that never run the space of two fathom upon the same line, or the same plan. In laying out these gardens, the object of the first labour is the inequality of the ground, which is gained even on the
the

the levellest surface, by digging into and removing the earth.

In this manner, the gardens belonging to Lord Burlington's house at Chiswick are laid out. A ground very flat by nature, turned up by the spade, has produced terrasses and hills, each of which is crowned by a little temple in the antique taste; finally a river of an extraordinary breadth, whose winding course, either cutting, or skirting the sides of the principal parts of the garden, multiplies the prospects from the house. The grand walk which forms the first point of view, being planted with cypress-trees, intermixed with urns and funeral monuments in the antique taste, has the appearance of a burying-ground: it seems to form an avenue leading to the temple of melancholy. I have since seen in France a fountain, which appeared to be made for this avenue; it is newly built in what they call the Greek taste, and occupies the centre of a spacious grove. Its octagon plan, divided into stories, has for an ornament at each corner, a vase, very heavy of itself, and loaded with crowns, or festoons of cypress; which present to the view nothing more than the decoration of a funeral pomp of the first distinction.

The gardens which the princess dowager of Wales has lately laid out at Kew, in the neighbourhood of Richmond, unite all that the English taste has been capable of producing, most magnificent and most variegated.

These gardens consist chiefly in thickets of a considerable extent, laid out in such a manner that each forms a whole, from which we pass to another unknown to ourselves, and without

so much as suspecting that there was any thing farther.

In one of these thickets is that Gothic chapel of which I have spoken in this work before, and which forms a saloon as spacious as it is singular. In another, on the summit of a hill made by art, rises a temple in the form of a rotunda, in the most pure taste of Grecian architecture: this temple which is consecrated to Victory, was erected in 1741. A grove of communication has an antique portal as an ornament, supported by the remains of an old building; the whole appears the more natural, as the juncture of the blocks and the crevices of the building, are loaded with those plants and trees, with which nature delights to overspread real ruins.

The principal of these thickets has a tower in the form of an octagon, built entirely in the Chinese taste, three hundred feet high, and divided into nine stories, which are distinguished by projecting roofs, adorned with bells, dragons, and other chinese ornaments.

The middle of the garden, round which these tickets are ranged, forms a very large plat-form; the ground of which unequally intersected is watered by an artificial river; beyond this river, we meet with a great wooden bridge, built in the middle of the meadow, for no other reason but to vary the prospect. This variety can result only from those foreign objects, and the artificial inequality of the ground, which presents to the view an extensive lawn of grass: the middle, which is in the nature of pasture-ground, is left to cows and sheep, whose plumpness and good order, whilst they shew what house they belong to, add greatly to the beauty of the landscape.

landscape. The borders of this pasture-ground form likewise grass-walks, but the grass is rolled and cut. The labour, which this requires, constitutes the chief employment of English gardeners, whose time is amply paid for : in the months of May and June, it is repeated every week : at other seasons fifteen days of rest intervene. Their method of working is this : about sun-set the gardeners roll the grass with enormous cylinders of cast iron ; which are hollow, and four or five feet long, with about a foot diameter. The moving these cylinders, whilst it levels the ground, flattens the blades of grass, which the weight of the dew keeps in that situation. The new day, before the sun dispels the dew, and has put the grass into a condition to raise itself again, they cut it down, taking it in a direction contrary to that which it received from the cylinders passing over it. Before the scythe has mowed the broadest walks, which the cylinder has been rolled over, they appear to the eye like large pieces of white and green mohair. Their verdure is the most beautiful in nature : at my departure from Paris the celebrated la Tour, a great connoisseur in colours, strongly advised me to give attention to the vivid hue of this verdure, which is not so much owing to the operations I have been describing, as to the goodness of the soil, and the abundance of the dews.

How agreeable soever these fine lawns of grass may be to the eye, they are inconvenient and troublesome to the feet. This we found by experience in walking through Windsor park, at eleven in the morning, in the month of May : finding no path, where we could tread without moistening our feet, we came away as wet, as if we had passed

the whole morning in some marshy ground. Even in the afternoon these fine lawns are scarce ever free from moisture.

The little alleys or paths, which are the proper places to walk in, are secured from this inconvenience by the fine gravel already taken notice of: being rolled over and smoothed by the cylinder it has the level and consistence of an excellent cement.

Amongst the curiosities to be seen at Kew-gardens, we should not forget a considerable collection of foreign plants of all sorts: a quarter is assigned to it in the neighbourhood of the palace, which unites all the conveniencies necessary in a botanical garden.

Many of these plants or shrubs, that cannot bear the open air in France, and even in Italy, flourish in the English gardens, which owe this happy temperature to the sea surrounding the island. The garden belonging to the princess dowager, that of the duke of Cumberland, Richmond park, and many others which resemble them in the manner they are laid out, and in their plantations have no buildings answerable to their magnificence: the gardens have swallowed up all the expence and attention of the proprietors.

Kew is almost joining to Richmond, where the King resides in summer; and it has a communication with Brentford by means of a wooden bridge over the Thames.

Brentford is situated in a delightful country. The duke of Northumberland has there a palace and gardens: it was originally a nunnery which went by the name of Sion: the nuns, being banished from England, went over to Portugal: there they built a monastery, where they still keep the key of Sion, which they had carried

ried over with them at the time of their exile. The earl of Holderness, who joins to English solidity all the politeness of French behaviour; and some other noblemen, have their country seats in this neighbourhood, where art can scarce make any addition to nature.

Lord Temple completed the demonstrations of kindness with which he honoured me during my stay in England, by giving me an invitation to pass the month of July with him at his seat at Stow. This house which was begun by lord Arlington, is, at present, the most magnificent and compleat piece of architecture of the sort in England. The greatest elegance is displayed, as well in the outside as in the spacious apartments of this fine house, round which you see a multitude of saloons, pavilions, grottoes, temples, and other buildings, all in different tastes, and enriched with every ornament suited to each: amongst these the most remarkable is the temple consecrated to the British worthies.

Many English parks owe their principal beauty to the extent and grandeur of their prospects.

Next to those of Greenwich, Richmond, and Windsor, which unite all that a landscape can offer, most spacious, most gay, and most varied, we should place that of the present duke of Newcastle's seat near Weybridge.

Seated upon a considerable eminence, it commands the prospect of an extensive and beautiful plain on the banks of the river Thames. In the last century this eminence was very steep and bordered with a terrace, which had cost a prodigious sum of money. The present proprietor began to fancy that a gentle declivity, would make the nearest approach to nature. In consequence of this notion the terrass was demolished,

lished, and turned into a slope, which is covered with perpetual verdure. The destruction of the terrace, the digging and removing the earth, must have been attended with infinite labour and expence.

By these expences, which may be compared to those with which Horace reproached the Romans of his time, all the country adjacent to London

*Sentit amorem
Festinantis heri.*

Nothing, however, shews more than these expences the wealth and splendor of a nation, especially when the several classes of the people have an equal right to such fancies.

The meadow, commanded by the duke of Newcastle's seat, is laid out on the same plan as the slope leading to it. It is bordered by different sorts of trees scattered irregularly without either order or symmetry; the bottom is planted with trees of unequal sizes and of different ages, without the least appearance of art, and which lead the eye to a forest of high trees terminating the prospect. The whole and the parts of this beautiful scene seem to represent in large, upon a ground of the extent of the Tuileries, the original of the Elysian fields, in the opera of Castor and Pollux, which I had seen at Paris just before my departure for London: besides the advantage of size, the prospect of Weybridge was heightened by that of a sun, whose rays, piercing through a sky somewhat overcast, afforded a mild and gentle gleam of light, which seemed to participate of the freshness of the dew, that was spread like a light varnish over every part of this gaudy landscape.

This

This taste, which, at present, prevails among the English in the manner of laying out their parks and gardens, is that of the Chinese, that is to say, the taste which, like all those of that eastern nation, has been established amongst them from the most remote antiquity. It appeared ridiculous, however to the French Jesuits, whose eyes were used to the symmetry and regular plans of the gardens belonging to the royal palaces of France. “The Chinese, said father le Comte, neither lay out their gardens with accuracy, nor embellish them with proper ornaments: they, notwithstanding, take pleasure in those places, and spend vast sums of money upon them. They form grottoes, raise little artificial hills, and transport rocks by piece-meal, which they heap upon each other: and all with no other view, but that of imitating nature*.

The French would have been beforehand with the English in adopting the Chinese taste, if they had followed the plan laid down to them by the celebrated du Fresni.

“Du Fresni, says the author of his life, had a predominant taste for the art of gardening; but the ideas which he had formed to himself concerning that art, had nothing in common with those of the great men whom we formerly had and still have, in this way. He never worked with pleasure, and, if I may be allowed the expression, at his ease, except upon an unequal and irregular ground. He required obstacles to surmount, and, when

* Mem. of China, p. 336, of the first volume of the 1st Edit.

nature offered him none such, he procured them himself: that is to say, of a spot of ground which was regular and flat, he made one full of risings, in order, as he said, to vary objects in multiplying them; and to prevent the effects of neighbouring prospects, he opposed them with eminences, which, at the same time, formed delightful vistas." They add that he arranged in this manner the gardens of Mignaux near Poissy, two gardens which belonged to him in the suburb of St. Anthony, one of which goes by the name of the mill, the other by that of the Hollow Road; finally those of the abbe Pajot near Vincennes. Upon this account, Lewis XIV. had granted him a brevet of comptroller of his gardens. He had presented this prince with a plan for the gardens of Versailles; and this plan, in which he consulted only his own fancy, was not approved of, on account of the enormous expence requisite to carry it into execution.

Even upon a smooth and level surface, the English are fond of imitating the variety of nature. Such is the garden of Sir Richard Glyn at Chelsea, confined within a very narrow compass. The square area or parterre, on one side of the bowling green, which forms the prospect of the house, presents to the eye a long gravel walk six feet wide, with two parallel alleys of three feet in breadth, covered over with short grass. Separated by shrubs and trees of various sizes, they either skirt, or intersect each other at random. The great walk, of a serpentine form, is terminated by a myrtle bush, which you must turn round to see the alley in front. This beautiful garden, which occupies but two acres of ground, might be a model

model for planting groves of the same extent in our gardens in France.

The dearth of the ground occupied by the parks, by the fields and gardens, where the inhabitants of London go to spend their Sundays, adds greatly to the astonishment arising from the great number of these pleasurable resorts. I shall here give the reader what I have been able to collect concerning the high price of land.

The best grounds which I have seen in my journey from Dover to London, are laid out in hop gardens and let for four guineas per acre.

An acre of the marshy grounds which supply London with garden-stuff, is said to be let at fifteen guineas a year and the rent will increase in proportion as London is enlarged.

At Chiswick, a village about six miles from London, as we sail up the Thames, half an acre, occupied in part by a small ruinous house, was let for fifteen guineas. This extreme dearth of land must have increased, and has in fact increased the encroachments of the proprietors upon the roads, whether public or private. If part of the road is unpassable to foot passengers, either on account of its narrowness, or for want of being kept in repair, the public has a right to pierce through the hedge of the adjoining estate, and to open a foot-way through it. This foot-path, which passengers are barely permitted to walk in by the proprietors, becomes public as soon as ever a funeral has been obliged to pass that way: this is an overt-act of taking possession on the part of the public: the proprietor can no longer forbid it; and if he should afterwards have a desire to wall his estate round

round, he cannot do it, otherwise than by placing the wall three feet from the road.

The wages of gardeners are in the like proportion. At the same village of Chiswick, general Elliot laid out a park in the English taste, which is now possessed by his widow. It contains three hundred acres, forming an oblong square, at the front of which is a convenient house without magnificence ; on the right is a very extensive terrace, close to which the Thames rolls its silver stream*. On the left is an aviary, as remarkable for the beauty as variety of the birds (I never saw any Chinese cocks elsewhere ;) a park filled with deer ; and a spacious field, in which twenty cows find excellent pasture, and whose good case commends their owner : this whole ground is irregularly planted with trees of all sorts and sizes. The middle presents to the view a spacious lawn, laid out in the English manner, and terminated by a pond of an irregular form, with islands, rocks, and a grotto. The salary of the gardener for taking care of the garden, and the cows, &c. is three hundred guineas per annum.

Wages are proportionably dear for gardens of less extent. I have myself seen a spot of

* Both above and below London bridge, this river affords the country it waters a constant and most delightful view of barges, wherries, and little boats. The prospect is not silent ; little vessels, adorned with elegance and taste, have frequently musicians aboard them ; it is a received custom upon the water, to attack each other with scoffs and scurrilous language, and he that is obliged to give over, is looked upon as vanquished,

ground,

ground, not exceeding an acre, occupied partly by a small house, partly by gravel walks, with two beds of flowers, where the gardener, who was lodged in the house, had a salary of twelve guineas a year.

The annual profit of the farmers is in the same proportion ; tho' their business upon the whole is scarce so beneficial as that of the gardeners and farmers in France : yet their houses are well furnished ; they are well dressed, well fed ; and notwithstanding they buy every thing at a high price, they live in ease and affluence. This affluence they owe to the manner in which taxes are laid : lands alone are charged with them. The farmer pays neither tallage nor subsidy, nor that multiplicity of duties so odious in France ; on account of the manner of levying them : he knows nothing of *courvees* or subdelegates. He need be under no apprehension, that improvements of the land will prove hurtful to him : those improvements, on the contrary, are recompensed by the Society for the Encouragement of Arts and Manufactures. It is to these fortunate husbandmen that we may safely suggest the proper means of improvement. As they are in circumstances to advance the money required for such designs, they adopt them with eagerness without being under any apprehension for futurity. These easy circumstances, it is true render the English farmers proud, haughty, and insolent : equal to the lord of the manor who solicits his vote at an election, and independent on the King, who, in his eye, is only a magistrate paid by the nation ; he knows no authority but that of the laws, which he can elude by means of his money ; but this affluence

fluence of the husbandman is the most solid foundation of the flourishing condition of England.

The laws relative to hunting, which are rigorously observed, shelter its plains from those devastations so common elsewhere, and which would be attended in England with consequences the more dreadful, as hunting is publicly allowed upon all lands indiscriminately to every man who is possessed of 100l. a year, except in enclosed parks and royal forests. But the fields are not open for hunting till the first of September: in the four preceding months the game is so undisturbed, that when the hunting season begins, the partridges of that year almost suffer themselves to be caught by the hand. The prohibition extends to the lord of the manor himself with regard to his own lands. In fine, the poulterers in London, are forbid to sell, or expose to sale, any game except birds of passage. The two first kings of the Norman race, passionately fond of hunting, had comprised the greatest part of England in the sphere of their diversions: this was called *afforestation* in their laws, which ordained sentence of death against those who killed a deer, and exorbitant fines for a hare, or a rabbit: these oppressions caused the best lands to be neglected: Magna Charta restrained them, and they are at present confined within their just limits.

In that part of England which I travelled over, neither large nor small cattle feed in herds the ground cut and divided in enclosures does not allow of it: being left to themselves the cattle graze both day and night in pastures contiguous to each farm. By day-break, in the month of May, we saw the sheep loaded with rich

rich fleeces issuing forth from the bushes in which they had passed the night, dressing themselves and beginning their breakfast. Thus the spirit of freedom, which is so general in England extends even to the dumb creation.

For this they are indebted to the care of the Saxon kings in delivering the island from wolves. This pernicious race has not, however, been totally destroyed. Those which escaped the general massacre, have taken refuge in the most rugged tracts of the highlands of Scotland: from thence they sometimes descend but these are only random excursions of a party quite broke down by their defeat: their situation is exactly the same with that of those Indian braves, who took refuge in the mountains of Spanish America.

The English, at present, hunt down animals whose defeat is less glorious, but which are no less destructive in another way: for this purpose they have recourse to the same means which were made use of to destroy the wolves; that is to say, rewards are given to those who make it their business to destroy them, and money is paid for a number of heads of the proscribed race. These are the sparrows, each of which is said to consume a bushel of corn upon a year's subsistence: thus 2000 sparrows less will give 125 septiers* of corn more in a year's harvest, without reckoning what their progeny would have consumed. Happy the nation whose governors know how to descend to particulars, in all appearance so trivial and of so little importance!

* A septier is twelve bushels.

L A W S.

The English customs, which Mr. Howard has lately published in French, carry with them an indication of the source from whence they are derived, that is to say, from the law established in Normandy by Rollo, when the sovereignty of that province was conferred upon him.

That this law was the same with that which Rollo found established in Normandy, is merely a question of curiosity, and which we might be induced, by several reasons, to determine in the negative.

1. Whilst Charlemagne was emperor, a century before Rollo, the feudal law, its principles, its maxims and consequences were as little known as in the reign of Augustus.

2. The feudal law was the ancient law of the Danes. That law was securely deposited if not in books at least in the customs, the tradition and the memory of men, who were the more able to preserve and transmit it, as it was reduced to a small number of articles, easy to combine and to transfer from one country to another.

3. This law was admirably adapted to a government purely military. Now such was the Danish government, such was that of Rollo, and such was that of the Normans who conquered England and the two Sicilies. Europe owed to the support which the military government and the feudal law reciprocally lent each other, the servitude which degraded humanity, and left it

no

no other liberty but that species of idleness which constantly attends the profession of arms.

4. Rollo had given Normandy new laws, the preservation of which he stipulated when he caused his son William to be crowned : *legibus & statutis nostris auxiliabitur.*

5. These new laws were unknown to Neustria under the Merovingian government. In fact, they established the feudal law in its utmost rigour with regard to younger brothers and daughters, in hereditary successions, and all the dispositions by which possessions are regulated. Now it appears evidently from the formularies of Marculf, that under the first race the severity of the salic law was already mitigated with regard to younger brothers and daughters. As to what concerns the Lombard law, by which the two Sicilies were governed, before the Normans had conquered those countries, it admitted all the heirs male to equal shares of the estate even in noble successions *.

6. The new law, being made common to Normandy and the kingdom of the two Sicilies, is a monument so little to be doubted of the Norman conquest, that the capital articles of the Neapolitan constitutions and of the customs of Normandy are explained by each other in the commentaries of the Neapolitan and Norman civilians.

From all these facts we may justly infer that the ancient Norman law, the English customs, and the Neapolitan constitutions contain the primitive source of the feudal law, - and even of our common law with regard to the regulations which it has borrowed from them ; and this

* Giannone, Lib. I. p. 559.

is sufficient to insure Mr. Howard's work that tribute of gratitude which the French civilians owe it. The Neapolitan customs, considered and treated in the same point of view, would be productive of the same consequences and the same lights with regard to the sources of the civil law of France.

England is, to this day, governed by the Norman law; but every thing there discovers the general wish of the nation for liberty, which is crushed by that law.

The successions, whether of the commons or of the nobility, are equally shared with regard to moveable effects between the children of both sexes. The eldest son, who is always preferred to the daughters in every state of inheritance, succeeds to all the immoveables, except in the case in which the father disinherits him, and chuses an heir amongst the younger sons.

Entails without end have long taken place in England; but at present, except in some particular cases, all entails are reduced to two degrees. They are made by single acts, but generally speaking by marriage contracts, the husband entailing his estate on the eldest son; and the wife her portion, which generally consists of moveables, on the younger children. By a piece of condescension of the three last chancellors the court of equity farther abridges the term fixed for these dispositions. A father burthened with the entail appears before the lord chancellor with a son one and twenty years of age, which is the term of minority; and the son declaring his consent that the effect of the entail which has fallen to him should cease for the present, a deed, signifying this consent, is delivered to the father, who, from that moment, may
use

use the entailed estate as he thinks proper, just as if the entail had never taken place; and the estate again comes into commerce. In fact, say the English, of what consequence is it that possessions should be rendered perpetual amongst the descendents of an individual, too often enriched at the expence of the public? These possessions by the power of entering again into commerce, will serve as a spur to the industry of new families, which, even whilst they ruin themselves, will contribute to the welfare of the state: he, that is only an usufructuary, is a stranger to the extraordinary expences, augmentations, and improvements which property alone can give rise to.

No other remedy has been found except in reducing entails to three degrees: they attained their ends, if, by excluding from these dispositions the landed estates which are the chief objects of them, they had been confined to contracts and moveable effects, the squandering of which is politically useful and restores to society what it had been deprived of. So Aristotle thought upon this subject: he in his Politics censures the precautions taken by the legislator of the Locrians to perpetuate in families the property of landed estates; precautions, says he, which end in nothing but in making both the possessors and heirs to estates lead idle lives.

Views relative to money, have, in France, got the better of political considerations. The register fees with which entails are charged form an important object; and the farmer of the domain holds, for the different classes or degrees of which these dispositions are susceptible, an account as extensive as the titles of the Code and the Digest which regulated them. But the
loss

loss which the farmer would suffer by the suppression of entails, would be abundantly compensated by the perquisites, which would take rise to his advantage, from the frequent mutations of property in estates disengaged from entails and restored to commerce.

It is with respect to wardships, that England has retained the most galling weight of the ancient feudal slavery. The King and the proprietors of great lordships are the natural guardians of all minors, to whom any estate held under them happens to devolve: this estate comes into their hands, and they have the full use of it, till their wards are of age, they are bound to find them nothing out of the revenue of these estates but subsistence. These wardships make part of the crown revenues and of the emoluments of great fiefs: they are bought and sold, and the king generally speaking, gratifies his favourites with them: by means of this arrangement the ward is made for the guardian*. At the time of the restoration of Charles II. this right was carried so far as to give the wards in marriage at the pleasure of the guardians? and rich heiresses were sold, in some measure, by auction. Wardships still make the department of a particular court: the lord chancellor is, in the king's name, the general guardian of every ward possessed of a fief which holds from the crown, that is to say, of all nobles who have the misfortune to be minors: hence the neglected education which

* The court of wards and liveries was abolished immediately after the Restoration, and in lieu of it a revenue of 100,000*l.* settled upon the king. . T.

those nobles receive ; an education which has a necessary influence on the general manners of a nation.

The community of goods between man and wife is as literally proscribed by the common law of England as by the Norman customs ; and this proscription is the result and necessary consequence of the laws by which successions were regulated.

The English value themselves highly upon this double regulation : they consider it as the foundation of the authority, which they are possessed of, or which they think themselves possessed of, in their families. Seeing themselves absolute masters of the fortunes, and all the property, either moveables or immoveables, of their wives, who lose their very names when they submit to the matrimonial yoke ; and being secure in case of survival, of an advantage equal to the dowry, they cannot conceive how, by means of the stipulations express in our contracts of marriage, a wife can have a right to ruin her husband, without risking any thing of her own : they cannot conceive how by renouncing a community of goods † in which she was injudiciously admitted, a wife carries off by way of resumption, jewels, jointure, dowry, and all that may have escaped her pride, her folly,

† The loss of her dowry should at least be the punishment of every wife, who, renouncing the community of goods, could not prove that the deficiency of them is entirely owing to the husband. In the present state of affairs the community of goods is a leonine society, in which one of the associates shares the gains without participating the losses.

and extravagance. What! say they, an unfortunate husband bound and shackled by a multiplicity of clauses superadded to the law, shall be totally ruined if he becomes a widower in the first years of his marriage; he is more sure of being so twenty or thirty years after; in a word his children shall be reduced to beggary, whenever they lose their father! What answer can a Frenchman make? He finds himself reduced, in order to defend the wisdom of the laws of his country, to make it appear that these destructive regulations have no foundation in the law, which by means of the community of goods, attempted to establish a perfect equality as the basis of the conjugal union, in order to strengthen in women that spirit of œconomy to which they are inclined by nature, making them accountable for all that they should spend or cause to be spent indiscreetly. A Frenchman may likewise add that, as so manifest a violation of the law can find no remedy in the law itself, it has been judged expedient to assist the husband by feoffments in trust, that is to say by new violations of the law: violations which worthy casuists, who neither know the principles nor the consequences of them, authorise by their decisions, but which those at the head of legislation will at last put a stop to, by restraining stipulations as contrary to the spirit of the law, as destructive to population, to private families, and to public manners.

The severity of the English laws towards daughters, in the article of successions, is the first cause of the union which generally subsists between married people: 'tis thereby that
a wife

a wife is in fact in the power of her husband*. The contrary is observed in marriages occasioned by the wealth of heiresses: in these unions the husband is either the tyrant of a seduced wife, or the first slave of an imperious mistress who makes him purchase the hopes of a donation or a legacy by servile submission: for whilst they exclude the community of goods, the laws of England have no motive for forbidding those joined by marriage from doing good offices to each other. According to these laws every child is reputed to belong to his father, if that father was within the four seas at the time of conception.

Testamentary dispositions, originally odious in England, were subjected to forms as constraining and troublesome as they were numerous. Liberty extending itself to goods and persons, has rendered wills very common by lightening the shackles which the ancient forms had given them. I have already spoken of one of these old forms which subsists to this day. The executor and the heirs are bound to avouch the will, upon pain of its becoming null and void, before the ecclesiastical judge, who is the proper person to

* The laws of England consider the wife as subject in such a manner to her husband, that if they commit any crime in concert, the wife is neither involved in the punishment, nor in the accusation? she is supposed to have acted necessarily, through the unlimited obedience which she owes to her husband. Upon the same principle, the husband is answerable for the outrages which his wife has been guilty of, either in word or deed: recourse is had to him alone for reparation.

take cognisance of all the disputes which may spring from the act so avouched; if these disputes turn only upon moveables or personal estate, it is the same judge who divides the moveables amongst the heirs. Appeals from his decisions in all these cases are laid before a committee of parliament, consisting of half temporal and half spiritual lords.

This practice was observed in France in those barbarous ages, when all acts were passed by apostolical notaries, under the seal of the ecclesiastical judge, whose jurisdiction they applied to. In concerns of mere interest, the sentences of that jurisdiction were, for a long time, liable to be executed upon pain of excommunication, a punishment which had great efficacy before multiplied abuses brought it into discredit. It must be acknowledged surprising, that the royal authority has not, by means of religious revolutions, resumed in England that part of its prerogative*, which it has long since taken full possession of in France. Its negligence, in this respect, is the more astonishing, as the ecclesiastical courts of England consider and reject as foreign all the laws which, by rendering the forms simple, have laid a restraint on quibble and chicanery: their manner of proceeding, as tedious as it is expensive, is, to this day, the same which they follow-

* It has been satisfied with marking the limits of the two powers by the statute of *præmunire*, which was made in the reign of Richard II. § and that law which had been levelled at the clergy, became the safeguard of its jurisdiction and authority, and is still so to this day.

§. The statute of *Præmunire* was only renewed under Richard II. it had been originally enacted in 1343, under Edward III. T.

ed during the barbarism of the middle age, when both in France and England the reign of ancient Druidism was revived *; an age in which, to use the terms of Froissart†, temporal lords knew nothing, and would have been no better than brutes, if it had not been for the clergy.

England has still some remains of Druidism, having no establishment of any sort to ascertain the existence of acts and their dates: it has not so much as legal and authentic registers for births, marriages, and deaths: I have elsewhere observed that their sailors are not registered. The establishment of these registers often proposed in parliament, has been as constantly rejected as a violation of national liberty.

CIVIL JURISPRUDENCE.

The method of proceeding of civil tribunals appears, in its present state, to be reduced to a

* *De omnibus fere controversiis publicis privatisque constituunt Druides. Si quod admissum est facinus, si cædes facta, si de hereditate, si de fructibus controversia est, iidem decernunt, præmia pœnasque constituunt. Si quis aut privatus aut publicus eorum decreto non stetit, sacrificiis interdicunt: hæc pœna apud eos est gravissima.* Cæsar. de Bello Gallico. Lib. VI. The Druids decide almost all contests both of a public and private nature. If any great crime is committed, if a person is killed, if there is any dispute concerning an inheritance, or concerning a revenue, they likewise decide it, and decree both the rewards and punishments. If any private person, or any person invested with a public office, does not abide by their decision, he is forbid to assist at the sacrifice: this amongst them is one of the most severe punishments.

† Vol. ii. p. 173.

simplicity which should render it as cheap as expeditious; lawsuits are, notwithstanding, as well in England as elsewhere, exceeding tedious, and often prove the ruin of both parties. The English do not seem to desire the summary and expeditious form established in despotic states: they look upon their method of administering justice as one of the grand advantages of liberty.

All affairs are judged upon the spot in the first instance: those of London, at the courts in Westminster-hall; those of the counties by the judges, who at stated times go the circuits. Upon hearing of counsel, and examining witnesses, on both sides, they decide causes, and there lies an appeal from their determinations to the house of lords.

All causes in the first instance, whether in Westminster-hall, at the county assizes, or the high court of chancery*, are judged upon the hearing, and never upon report; this circumstance, whilst it seems to encrease the labour of the judges, diminishes it in fact. They see every thing themselves, they hear the parties, all circumstances are laid open and debated before them: they do not see with the eyes of secretaries. I have already said that the lawyers, in order not to encroach upon the time and attention of the judges, lay before the court nothing more than the point of law, or the fact, which is the subject of dispute.

Appeals are made to the house of lords by briefs or memorials. Each party gives in three: the first in which it lays open its pretensions and

* This is a mistake in regard to the court of chancery, where causes are tried from the depositions of persons examined out of court. T,

proofs; a second answers those of the other side of the question; with regard to the third, each of the parties deposits his with the clerk of the house, at the same hour, and it should contain, as there are no hopes of making any farther application, whatever they can alledge either by way of attack or defence. Their memorials being finished, they wait in silence the judgment, which after the last pleading is to be pronounced on the three following days.

These memorials contain three or four sheets of large paper, written in a fine running-hand. The back of these leaves is in a contrary direction to the front, the bottom of the preceding page making the beginning of the next.

The appeals are decided in the upper house by the peers, assisted by the lord chancellor. All the peers have a seat and vote at these judgments; but the presence of three peers is sufficient to render them legal: in whatever number they happen to assist, they generally accede to the opinion of the lord chancellor.

CRIMINAL JURISPRUDENCE.

Under the government of the clergy, France quitted its ancient form of proceeding in criminal causes, and adopted that which the popes had introduced in the courts of inquisition, and which the ordinance of 1670 has preserved in many of its parts. Hence the secret manner of drawing up a process amongst us, the ascertaining of the offence by the judge when the party accused is not present, the oath which the culprit is obliged to make with regard to the several acts that are performed in his presence, in fine, the torture, with

a variety of artifices to extort confession, which seem to turn the whole force of the process against the person accused.

The English, notwithstanding their being so long enslaved by priests, have constantly retained the ancient forms which they make use of to this day, and which are all favourable to the person accused.

1. His person is at liberty upon giving bail*. Our old criminal jurisprudence granted the same indulgence. We meet with a multiplicity of examples of this in the ancient records, and particularly in that of Champagne, which was removed from the Colbert library to the king's, with the title of *Liber principum*, I shall give here one of the examples which occur in that book. In 1267, Henry de Hans, knight, being imprisoned at Provins, for an offence against Thibault, count of Champagne, was enlarged during four months, upon bail given by the count of Roucy, the count of Soissons, and d'Anceau de Garlande, who after having made affidavit before a royal commissary, bound themselves by a separate act, "to produce the said lord Henry on Lady-day in September, in the condition in which he was at the king's prison at Provins; and if the said Henry did not return, to imprison in his room a knight worth six hundred livres a year, in a fortnight after they should be summoned†.

2. The

* Except in capital cases. T.

† These acts like most of those which came from count Thibault, or which were passed in his dominions, are in French: the Latin language was then the most usual, even in the court of chancery of our kings. The French language is indebted to count Thibault

2. The offence is not ascertained by an act of the judge himself; it is established by the judgment of a jury.

3. The person accused can challenge twelve jurymen out of four and twenty; and all this naturally, simply, and without giving any reason for so doing.

4. If at the assizes no body appears against him, he is discharged, notwithstanding the strongest presumptions of his guilt.

5. He cannot be condemned till he has been declared guilty by twelve reputable men of sufficient freehold; and the judgment of these reputable men, which is called the judgment of God and of the people, must be unanimous either for acquitting or condemning him.

6. After having been found guilty he may plead benefit of the clergy, of which I have spoken already.. I shall add to what I have said on the subject, that the guilty person who is cleared in virtue of this privilege, is burnt in the hand with a red-hot iron which has on it the letter T. or M. and that he cannot plead this benefit twice.

7. The accused is allowed counsel, but that counsel is forbid to meddle with or enter into any discussion of the fact; his business is only to speak

Thibault for the improvement which it made in the 13th century. By his songs, he put it into the mouths of the polite company of that age: by his acts, he introduced it into public deeds and instruments: by the judgments of his courts, issued and published in French, he procured to it the honour of becoming the organ of the laws: in a word, our two earliest French historians, Villehardouin and Joinville, acquired, at the court of Champagne, that taste for their mother-tongue, which appears in their writings.

to the point of law : the most idle and ridiculous quibbling is here admitted. A man had been brought to a trial for having married three wives : he was found guilty by the jury, and the judge was going to pronounce the usual sentence in cases of bigamy. His counsel maintained that the law which had been enacted against those who had married two wives, could be of no effect against such as had married three ; this observation being attended to, the man was acquitted. The sessions papers, containing the trials of criminals, which are printed regularly, with the defence of the accused and the charge of the accuser, present us with a thousand examples of such evasive subterfuges.

8. The person accused is allowed to call witnesses to his innocence, and every circumstance that can be alledged in his favour is admitted.

9. The whole juridical procedure passes in public : the only written instrument made use of upon the occasion is the indictment : the rest of the process is conducted by word of mouth, between the culprit, the judge, and the jury.

10. The oath of the person accused is not required ; that formality is confined to the witnesses and the jury. The courts set up by Cromwell had extended the oath to the accused ; but this custom ceased with the usurpation.

11. A culprit when acquitted may bring an action for damages against the prosecutor.

12. In fine the charges to juries are made in these terms by the judge : “ the point is to restore a citizen to his liberty.” Even sentence of death is pronounced in the language of mildness and humanity : “ You have been brought to a trial, says the judge to the culprit, you have denied the fact of which you were accused, and
you

you have put yourself upon your trial by God and your country, by whom you are found guilty. The sentence of the law therefore, is, that you are to go from hence to the place from whence you came, and thence to the place of execution, where you are to be hanged * by the neck till you are dead, and God have mercy upon your soul."

The trial by juries, which is called a trial by God and the country, borders upon the forms of proceeding established by the Northern nations in most countries of Europe: it was one of the proofs known by the appellation of *purgatio vulgaris*: the proofs by iron and by fire, and combats in enclosed lists, made a part of this purgation, which the English have reduced to what is most reasonable in it.

The courts of inquisition had likewise adopted it, and have retained it, but in the most unreasonable manner: they have recourse to it only to charge the accused, against whom there is not sufficient proof. Twelve persons are named, who must assert their innocence by oath: if out of

* This is the punishment inflicted in England upon those who are guilty of common robberies, upon highwaymen, upon murderers, upon parricides, and for all crimes which do not attack the government, nor the person of the sovereign. About the year 1755, the parliament added to the punishment of murderers, that they should be executed at farthest the day after sentence was pronounced against them (doubtless with a view of depriving them of all hopes of pardon), and that, after their execution, their bodies should be delivered to the surgeons, to be publicly dissected. The earl of Ferrers was one of those upon whom this punishment was inflicted.

these

these twelve persons three refuse to bear testimony to the innocence of the person accused, he is again thrown into a dungeon, judged and condemned, as one attainted and convicted*.

The English forms of procedure have an aim diametrically opposite to this: there every circumstance tends to the acquittal of the prisoner, in conformity to the voice of nature which cries out: "rather save twenty guilty persons, than put one innocent man to death †." However, as there is nothing that is not liable to be abused by fanaticism, how many innocent persons have those forms led to the scaffold in the heat of revolutions occasioned by religion! James II. abused them by means of Jefferies the chancellor, whom king William's apologists represent as a hired executioner. The earl of Bedford's son had been one of his unhappy victims. In the midst of the revolt of his whole kingdom, the imprudent monarch asking the advice of this unfortunate father: "I had formerly a son, replied that nobleman; he might have given you the advice which you ask of me, and carry it into execution."

I with surprise attended a trial at the court of King's Bench. The jurymen, who were placed

* See Hoffman Lexic.

† *Valeant omnia ad salutem innocentium*, said Cicero, *ad opem innocentium, ad auxilium calamitosorum; in periculum vero & perniciem repudiantur*. All circumstances should be turned to the preservation of the innocent, to the assistance of the unfortunate; but every thing that contributes to his danger and prejudice should be avoided. Machiavel on the contrary affirmed, that "the excess of severity falls only upon a few individuals; but an excess of compassion exposes all the innocent to those violences which the law ought to prevent."

upon

upon a kind of amphitheatre, where they could see and hear every thing, seemed to consist entirely of artificers and tradesmen. As soon as they were seated, one of the judges addressed himself to them in a long discourse, in which he observed, that the law, which called them to sit in judgment upon their peers, had its origin in ages, when frankness, integrity, and simplicity, reigned in conjunction with ignorance: that confidence in those happy qualities had offered the legislators a resource necessary at that time: that men having been afterwards farther enlightened, the law had notwithstanding been continued, from a presumption that the passions would respect the most august use that men could make of their understanding, in becoming arbiters of the life and death of their fellow-creatures: that though the times had changed, the motive of the law was still the same, &c. This discourse concluded with a recommendation to the jury to join, in discharging their present duty, the simplicity, frankness, and integrity of their ancestors to the knowledge which had been obtained in the following ages; in a word, by means of these great helps to suppress all undue pity, and the several emotions which the passions are capable of exciting.

The prisoner was thereupon brought to the bar. After the same judge had made a speech to him, the witnesses appeared, and took an oath, holding their hands upon a New Testament which stood upon the bar. The culprit excepted against some witnesses, who retired. Upon the deposition of each fact made by any of the witnesses at the trial, the prisoner interrogated him, denied the fact, or explained it; and the witness either persisted in it, or added some circumstance to aggravate

aggravate or diminish the charge. During these debates the judge and the jury, questioning the witnesses and the prisoner whenever they saw occasion, took notes of the whole proceedings. Each witness being thus re-examined and confronted by this sole act and without judicial writing, and the culprit having retired, the judge in a speech summed up to the jury the whole charge, and the result of the depositions. He then quitted his seat and the jury went out of court into an apartment adjoining, where they are shut up without bread or water, till the judge, having received notice from them to return to his bench, hears their unanimous opinion concerning the innocence or guilt of the prisoner.

The jury are not always directed by motives of honour and conscience. The law ordains the most severe punishments against those who knowingly prevaricate in that solemn office. They are declared outlaws, that is to say, incapable of all protection from the king or the law, infamous, unworthy of credit, divested of all the rights and incapacitated for all the duties of a citizen. Their goods are confiscated, their houses pulled down, their meadows dug, their trees rooted up, and their bodies confined in perpetual imprisonment. The same punishments are by the law inflicted on false witnesses and those who bring calumnious accusations of capital crimes.

Judges and juries are not well agreed with regard to the duties of their office. The judge maintains that the process is made out by him in the presence of the jury, whom he instructs how to form a decision of the cause, when he sums up the evidence and gives his charge. The juries, on the contrary, maintain that the whole procedure in all its branches is referred to them; that

that the judge assists merely that his presence may awe the witnesses and the prisoner with respect, and to assist the jury by his experience and knowledge of the law. This competition, and the rivalry, which it occasions, rendering both judges and juries equally alert, put the law in the place of man: it is that which conducts the process and decides the cause. Man, on the contrary, supplies the place of the law in those countries which have borrowed their criminal forms from the pope's decretals: he is master of those forms and of the various terms which they are susceptible of, either in charging or clearing the criminals: these he has the more at his disposal, as the procedure is secret, and all the acts and instruments are at his discretion.

The trial of an English peer is the most august act of criminal justice. I had the satisfaction of assisting at an act of this sort: justice there appears surrounded with all the external pomp, which elsewhere accompanies the most solemn acts of religion.

Westminster-hall is the scene of these august acts. This is a spacious saloon, longer than the great hall of the *palais* at Paris, and which appears still more so, as it is not divided like the last into two walks. It is all wainscoted*, and
this

* All this wainscot, covered over with Gothic sculptures, is of that fine sort of wood which in time assumes a yellow hue, and which neither dust nor spiders can stick to. The wainscoting of most of our ancient cathedrals is of that same sort of wood which is thought to be the chesnut-tree. I notwithstanding heard one of our first-rate naturalists affirm, that this wood is nothing else but the oak; a tree formerly very common in our forests, when it was
in

this wainscot exhibits the boldness and lightness of ancient Gothic structures. It is the sole remains of the ancient palace of Westminster, which was built by the first Norman kings, and burnt down in the reign of Henry VIII. This hall, which is far from being dark, admits the day-light only by great casements placed in the roof*.

The trial of lord Byron for killing Mr. Chaworth in a duel†, was ordered, in consequence of the coroner's inquest, by which he had been found guilty of murder; he was therefore summoned by the king to make his appearance, in order to be tried by his peers, in Westminster-hall.

The house of lords gave orders that all the absent peers should be cited to assist at the trial, that the royal family should be invited to it; that the lord chamberlain should cause Westminster in such a manner neglected, that it had time to arrive at its full growth, by extending its branches at the expence of whatever surrounded it. This hypothesis appears to be much more probable, than a supposition that all our forests were originally composed of chesnut-trees; that is to say, of trees of a nature foreign to our climate, in which they cannot thrive without a continued culture. See the Encyclopedia, at the word *Chataignier*, Chesnut-tree.

* This hall was pitched upon for the scene of the famous gun-powder-plot, which, though perhaps imaginary, produced a real effect in determining the irresolute temper of James I. against the Roman Catholics. I have seen the entrance of the cellar in which the mine of powder was said to be laid.

† This duel was fought at night, in a tavern at Pall-Mall, by the dim light of a bit of candle.

ster-hall to be fitted up in the usual manner; and that the king should be requested to fix the 16th of April for the opening of the court, and to name a lord high steward to superintend the trial.

In consequence of this resolution, the nobleman accused was put under arrest by the gentleman usher of the black rod, and sent prisoner to the Tower of London; witnesses were cited, and all the peers summoned to attend: the king appointed the 16th of April for the day on which the trial was to commence, and created the lord chancellor lord high steward.

This tribunal filled the whole extent of Westminster-hall. The bottom was taken up by two great boxes intended for the royal family and foreign ministers. Before these boxes stood the king's throne with a canopy over it. Two thirds of the hall were occupied on both sides by an amphitheatre, divided into six rows. The area of that amphitheatre was the place where the lord high steward was seated at the foot of the throne, and of the lords spiritual and temporal. The part of the hall which faced the throne, being somewhat raised and separated by a bar from the peers enclosure, was the place where the accused lord was to make his appearance. At the lower part of this bar were placed two benches separated by a rail from the peer's enclosure. One was intended for the attorney and solicitor-general, who were to manage the prosecution; the other for the family of the nobleman accused, and for his own attorney. Farther within the bar the clerk sat at a table, with all the papers relative to the process.

The hall, the throne, the benches, the bar itself, and all the parts of this pompous decoration

tion were covered with crimson cloth. The expence of this decoration was estimated at five thousand pounds. The lord chamberlain, who had the direction of it, dispersed amongst the public four thousand tickets, adorned with the arms of that nobleman, for as many spectators. Each of these tickets had three different colours, to denote the three different sittings which the trial was to take up.

The court was opened on the 16th of April at seven o'clock in the morning. It would be hard to conceive a more brilliant meeting. It contained all the chief ladies of quality in the three kingdoms, part of whom were come up to London to accompany their husbands or relations attending in parliament, and the remainder to be present at this important trial: none of those ladies had neglected her attire, or forgot her jewels.

It was in this hall, and in the midst of such a concourse of spectators, that the trial of the unfortunate Charles I. was opened on the 20th of January 1649. Contemporary historians inform us, that the king being brought thither, the clerk of the court read the bill of indictment, which was laid against the prince in the name of the people of England, when lady Fairfax *, wife to the general of the parliamentary troops, rose up and interrupted the clerk, crying out with a loud voice and great warmth, "They are lyars: the tenth part of the people of England is not concerned in this parricide: 'tis the work of the traitor Cromwell yonder."

* That general, who was named amongst the first commissioners, assisted at none of these meetings.

Cromwell

Cromwell bore this violent reproach without discovering the least emotion, and the proceedings of the court went on.

At the trial of lord Byron, the amphitheatre being filled without the least confusion * ; the peers who had assembled in their house, entered the hall to the number of about 250 †. They walked two and two dressed uniformly in long red robes faced with ermine : this procession was terminated by the king's two brothers, by the judges and the lord high steward, who held in his hand a long white rod : this is the badge of his dignity : he continued to hold it during the two sittings. The lord chamberlain, with a rod

* Many curious persons made an effort to enter the hall, but the guards were inexorable in excluding all who came without tickets. At the second sitting, tickets were publicly sold for six guineas a piece, and they found purchasers. At the trial of lord Ferrers, a curious person who had not been able to procure admittance, got upon the leads, and fixed himself at one of the windows in the roof, which give light to the hall upon the right side of the throne. Whilst he was making an effort to see, an iron rod upon which he leaned, broke, and he fell from a height of above forty feet upon the spectators, who filled the rows placed under the sky-light. It seems to be a sort of miracle that nobody was either killed or wounded, and the curious gentleman, occupied, during the remainder of the trial, the place he had obtained with so much hazard.

† At present they are computed at 235 ; three of the royal family, twenty-three dukes, a marquis, eighty-one earls, thirteen viscounts, sixty-seven barons, twenty-six archbishops and bishops, and sixteen Scotch peers. Their numbers are always varying both by deaths and new creations.

of

of the same sort, but somewhat shorter, performed the office of master of the ceremonies. The lord high steward placed himself at the foot of the throne upon a wool-pack, the judges seated themselves upon sacks of the same sort within hearing of the lord high steward, and the lords took their places upon benches placed on the right and the left side of the bar.

Upon entering the court to take their places, as well as in their return to the house, each pair of these noblemen in passing by the throne, stopped, bowed, and with their hats saluted the royal majesty, supposed to reside there, though the king was not present. The uniformity of dress in these noblemen did not extend to the head. Some of them wore their hair round, others long, some in bags, others simply tied behind. There was as little uniformity in their hats: these were of all shapes and sizes. With regard to the manner of saluting, or taking off their hats and putting them on, in general it was widely different from that which is learned at the school of Malter, Marcel, and Gardel; for it discovered in different gradations that pride which can neither stoop to dependance, nor cringe to any thing bordering on servile restraint.

The court being met, the prisoner, who was come from the Tower with his equipage, appeared at the bar. He was dressed in deep mourning, and preceded by the gentleman usher of the black rod, with a serjeant at arms on each side, holding an ax with the edge turned from him, and followed by a company of battle-axes: he fell upon his knees before the court and shed tears, with which a great number of the spectators mixed theirs.

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The trial was opened by a proclamation made by a herald, who standing upon a sort of stool, cried out three times, O yes! laying a strong emphasis upon the first syllable of that word*.

The lord high steward having addressed himself to the prisoner at the bar, and laid before him the substance of the charge against him, he confessed himself guilty of manslaughter, and he was permitted to rise and continue standing: a posture which he persevered in during the whole trial. He had by his side, for his counsel, Mr. Yorke, son to the late lord chancellor. That gentleman having sacrificed to his attachment to Mr. Pitt's party the place of attorney-general, which he had filled with distinguished abilities, had again mixed with the other barristers*, and resumed the functions of a private counsel. The unfortunate nobleman had likewise his attorney, and a sort of a crier, who, with

* Those English gentlemen who were so obliged as to interpret for me, considered this word only as an ancient exclamation consecrated by custom. It is, doubtless, our old word *oyez*, listen, hear. Thus in registering bills in parliament, the royal assent is expressed in these terms: *Le roy le veult*, which the chancellor pronounces in a loud voice; and in that of the subsidy-bills, he expresses himself thus: *Le roi mercie ses bons sujets de leur benevolence & le veult*. The language of the court of Common-Pleas has retained a number of forms, which are still either entirely, or in part, couched in that ancient Norman language, which William the Conqueror had introduced into England.

* He was distinguished from the other barristers by the silk-gown, which belongs only to the king's counsel, and which he had been permitted to retain by a patent of precedence.

a voice

a voice resembling that of Stentor, repeated phrase by phrase all that was said by the witnesses and the accused.

They began with reading all the proceedings of the coroner, calculated to ascertain the facts by a jury. The witnesses who had before been heard, were afterwards confronted with the accused, who started against most of them exceptions, which the court admitted or rejected directly. The depositions of those witnesses admitted, were then read. The person who read them, made a pause at each phrase : the accused answered by word of mouth, asked questions, and entered into a sort of conversation with the witness ; notes were taken of all that was said by the clerk of the crown, as well as of the questions asked by some of the peers.

Witnesses were then heard, whom the accused had leave to produce to those facts which tended to his justification : the attorney-general did, with respect to them, what the accused had done with the witnesses against him : the peers questioned them likewise.

Such was our ancient jurisprudence in the method of laying the facts tending to the justification of the prisoner before a court : the judgment which directed the re-examination and confrontation, ordained likewise, that the person accused might have leave to produce witnesses on his side. By the ordinance of Cremieu, the lord chancellor Duprat inverted this order, which appeared to him to be too favourable to the accused, or which, perhaps, laid him under a constraint in some particular case. This innovation, confirmed by the ordinance of Villers-Cotterets, has regulated the dispositions of the ordinance of 1670 upon this subject, without any intervention
or

or observation of the magistrates, to the examination of whom this ordinance was submitted before its publication.

The first sitting at the trial of lord Byron having lasted till six o'clock in the evening, the lord high steward put an end to it by proroguing the court to the day following, and the accused nobleman, constantly attended by the gentleman usher of the black rod, was re-conducted to the Tower in his coach.

On the next day, which was the 17th, the court being opened with the same concourse of spectators, the prisoner was again brought to the bar, surrounded by the same retinue which had accompanied him the day before, and two new witnesses were heard, who had been cited and produced by the attorney-general. One of these witnesses was the attorney that made the will of Mr. Chaworth, whose death gave occasion to the trial. That witness deposed, that he had heard the dying man say, that lord Byron had killed him. The accused having replied to this deposition, some of the lords rose up and affirmed that the witness should be asked, with what tone of voice that declaration had been made by the dying man, whether it might reasonably give room to a suspicion, that the deceased meant that his adversary had used any foul play; in a word, that the witness should declare what judgment he had put upon the meaning of that declaration. Other lords maintained, on the contrary, that the deposition of each witness should be received such as he delivered it, and taken in the sense which it seemed immediately to offer: that the office of the judge being purely passive and confined to hearing the witnesses, did not extend to questioning: finally, that in this particular

ticular case the judgment of the witness concerning the intention of the dying man, had no tendency either to prove the guilt of the prisoner or to clear him. Upon this debate the peers, in order to discuss the matter more fully, quitted their seats, repaired to their houses and the prisoner retired. They then returned, having come to a resolution that the deposition of the notary should be received as he had given it; and that resolution decided the point. The accused then applied for and obtained leave to cause a memorial to be read in his defence. The rules and customs of trials allowed him only to make his defence *viva voce*, but the weakness of his voice seemed to authorise his request: the memorial was of great extent. The reading of it was followed by a speech made by the lord high steward, who in recapitulating the articles of the accusation, and comparing the proofs resulting from the depositions of the witnesses on the side of the crown, or of the prisoner, either to prove the guilt of the latter, or to clear him, shewed the peers the point on which the cause turned, and put it in a light favourable to the prisoner.

Such speeches made extempore, and merely from minutes, can come only from men, who add to acknowledged abilities, a habit of speaking in public, and a consummate knowledge of the law.

The attorney-general having been heard, the peers returned to their house, where the lords spiritual, the archbishop of Canterbury speaking for his brethren, declared, that they declined taking any farther cognisance of that affair, and that they chose to retire, at the same time protesting, that their retreat should not be considered

ed as any way prejudicing the cause of the accused person.

The peers having then returned, the lord high steward successively put the question to each of them, whether the prisoner at the bar was Guilty or Not Guilty; to which they unanimously answered, laying their hands upon their breasts, Guilty of manslaughter.

This done, the prisoner being brought back to the bar, pleaded the privilege granted in cases of manslaughter to peers of the realm, by a law of Edward VI. By virtue of this law he was set at liberty, no sentence being pronounced against him; his coach brought him back to his own house, and on the 25th of the same month, five days after the trial, I saw him amongst the other peers at the house of lords, when they were debating on the regency bill. The lord high steward terminated that of the grand tribunal or court of justice over which he presided, by breaking his white wand and quitting his office.

Lord Byron after being thus acquitted, was liable, as I have been told, to be again proceeded against at the Old Bailey, at the sessions held there by the commissioners of oyer and terminer. But the charge must have been brought against him six weeks after his acquittal, and could be brought only by the widow or the heir of the deceased, or by parties personally interested in the cause; in fine, this accusation is, with regard to its form, subject to a strict severity of language, in which the least word altered, or forgotten, annihilates and destroys the action.

I have already observed that in England, condemnations reflect no infamy on the families of the persons condemned. Eight days after the execution of the earl of Ferrers, his younger brother,

ther, who succeeded him in his titles, took his seat in the house of lords. This was the practice of ancient democracies in which a state of perfect equality prevailed, and every citizen was the son of his own merit; in which noble birth was of no value; in which men had not the least idea of the point of honour; in which, in a word, a General of reputation might receive, in a full council of war, a blow with a cane, without thinking himself obliged to revenge the affront: “instead of punishing the children of criminals, we should, said Plato, praise them for not resembling their parents *”. In China, on the contrary, the whole family of a criminal is involved in his punishment. France does not act in this respect either like the Chinese or the English: vulgar prejudice there extends to the family of a criminal the infamy of a punishment, which he has either suffered or deserved to suffer. This prejudice has its source in the French form of government, which as little resembles that of England as the Chinese: it is connected with that honour which, according to the maxim laid down by M. de Montesquieu, “is the principle and soul of the monarchical government, which is to be found only in states whose constitution is fixed, and whose laws are certain; which gives life to the whole body politic, to laws, to virtues themselves; which though, philosophically speaking, false, is as useful to the public as true honour could be to the individuals possessed of it; which in fine is equally unknown both in democratical states, in which all the citizens are upon a footing of equality, and in despotic governments, in which all men are in such a manner

* Plat. de Leg. lib. ix.

equal, because they are all equally slaves, that their language has often no term to express it*.

In consequence of this distinction the monarchical government has for its basis the maxim:

*Summum crede nefas animam præferre pudori,
Et propter vitam vivendi perdere causas.*

And if there was a monarchy in which honour and the prejudices connected with it should be reckoned as nothing, in which the sons of a person executed, of a military man or a judge, who did not know how to behave in a manner worthy of their station, of a public extortioner, a fraudulent bankrupt &c. should be upon a level with other citizens, this monarchy would no longer have any fixed constitution: by losing the point of honour it would be deprived of the equilibrium which supported it between two precipices, namely, despotism and anarchy, which opens a road to democracy. The revolution would be complete if these same persons, concealing their infamy by the insolence of luxury †, were repeatedly seen with marks of distinction, which would be refused to men of irreproachable lives, who do not dazzle the eye by their outward appearance. As this revolution would have an influence upon the manners of men in every cir-

* Spirit of Laws. Book iii.

† *Brave* and *braverie*, words which were often used in former times in this sense, are of a more ancient date in the French language than *brave* and *braveure* which are derived from the Italian. I don't know from which of the two the word *braver* is derived, which, perhaps, signified originally to *dazzle by a pride of dress*.

cumstance, and even upon gallantry itself; the philosopher who compares modern manners with antient prejudices would exclaim:

*Beaux jours de la chevalerie,
Revenez, encor parmi nous:
Revenez, galante folie,
Amadis terribles & doux.*

Bright days of Chivalry again
Return, amongst the sons of men:
Return, gallantry of knights,
Renown'd in tournaments and flights.

The privilege possessed by the English lords of being tried only by their own house, is, in the present state of that kingdom, one of the strongest bulwarks which liberty could erect against arbitrary power.

Every lord is the natural judge of each member of the upper house; the court can exclude none of them. It seldom happens that a prisoner of that class makes exceptions against any of his own body; each peer, from a consciousness, declining to appear on trials, in which he might run the hazard of being excepted against.

The lords assembled for a trial never take an oath like the juries summoned in criminal causes: they declare upon their honour that the prisoner is Guilty or Not guilty; but their judgment, like that of other juries, should be uniform and unanimous*.

The parliament of England was originally composed of such of the barons or possessors of great fiefs, as the king thought proper to summon to that assembly. Most of these possessors having lost either their lives or estates in the wars of the

* This is a mistake, a majority is sufficient. T.

red and white roses, the small number of antient families which escaped the general wreck, attached themselves to the sovereign, who afterwards found them more devoted and submissive to his will, as they had learned, by the experience and example of former times, that it was only under the shelter of the throne they could expect any grandeur and stability.

Henry VII. and his successors were indebted to the humble submission of those that remained of the ancient barons, for that arbitrary power which contemporary authors compare to the despotism established in Turkey and Russia. If these princes revived ancient titles of peerage, it was in favour of servants of a fidelity not to be shaken, or of favourites who could not deviate from their duty with impunity; the sovereigns to whom they owed their exaltation, had always among the grandees sure ministers of their vengeance. Thus under Henry VIII. and his successors, the chiefs of the parties, which opposed the court, were alternately condemned and executed. Thus died the famous earl of Essex: victim to the jealousy of ministers he was tried and condemned with all the usual forms, by a jury of twenty-five peers chosen by his prosecutors.

Such were the judgments which France afterwards saw during the administration of Richelieu, who was himself surprised at the address of his commissioners in finding those guilty whom he had put into their hands: such have been the judgments of commissioners in all ages and countries.

James I. his children, and their successors, having filled the upper house with lords of their own creation, who had a right to sit in judgment upon their peers, the court found itself divested

of the immediate influence which it had in these judgments: at present the king can neither ruin nor arbitrarily punish a peer, who has incurred his disgrace: this want of power in the prince is become one of the capital articles of national liberty. Nothing now remains subject to court influence, but the sentence of a court-martial. Admiral Byng experienced the influence of the court upon the decision of commissioners of its own choosing. The commissioners whilst they condemned the admiral, declared him an object of mercy in that very sentence, and to acquit their consciences wrote to the king, requesting his majesty in the most pressing and earnest manner to pardon him, and representing it as an act of justice to comply with their petition. In spite of these representations and intreaties, the sentence was executed, after having been declared legal by the twelve judges, to whose opinion it was referred by the court. It was necessary that a striking example should be made, in order to restore subordination: this produced all the effect that could be expected from it: but how great the consequence of such examples with regard to national liberty!

This liberty extends to the lower class of people according to circumstances. All London rung, when I arrived there, with a verdict which had been given against lord Hallifax, secretary of state, in favour of the author, printer, and hawkers of the Monitor, a weekly paper, in which that minister was personally attacked and reflected upon. These persons being seized and imprisoned, commenced a law suit against the minister, and brought the cause before the court of Common-pleas, where it was solemnly tried. At last the minister was, by the jury, fined in a
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very considerable sum to the author of the Monitor, with proportionable damages to the printer and the hawkers. The verdict given against them, when tried before in the King's Bench, had been by that court declared conformable to law; but they had been detained longer than was thought necessary, before they were examined; the want of this formality served as a pretext to the action against my lord Hallifax, and a foundation to the verdict given in their favour. The laws which they rested their cause upon, were of a very ancient date; many accused persons had in vain applied to have them put in execution, but circumstances were not then so favourable as in the present case. If this judgment should not be considered hereafter as a precedent, it will at least be a warning to the judges to examine accused persons within the term prescribed by the law.

King James I. well aware of the importance of these maxims, observed, that, as God governs the world by the ordinary course of nature, kings should in like manner govern their dominions by the ordinary course of justice; and as seldom assume the power of inverting that order, as God rarely exerts his omnipotence in working miracles.

The judgment pronounced against lord Hallifax shews how much the liberty of the nation has gained ground since the reign of Charles II. That prince seeing a man in the pillory, asked what crime he had committed. He was answered, that the man stood there for having libelled his Majesty's ministers. Why did he not write against me? replied the king, he might have done that with impunity.

Deliberate murder is, as I have already observed, unpardonable amongst the English, whose abhorrence for that crime has been confirmed by reading the Bible, since it is become the general book of the nation. The king, in this respect, regulates his conduct by the maxim laid down by Bodin for all sovereigns : “ they may, says that author, remit the punishments inflicted by their ordinances, but not those ordained by the laws of God ; no more than they are authorised to exempt their subjects from obeying that law by which they are themselves bound. If the magistrate who dispenses with the law of his sovereign, deserves capital punishment ; how can it be lawful for the sovereign, who is God’s magistrate, to exempt his subjects from observing the divine law. The monarch cannot dispense with the civil interest of his subject ; favours conferred by him must not encroach upon the rights of others : how can he then dispense with the interest and the rights of God ?”

In English courts of justice, the question or torture is banished from criminal processes. I wanted to know, 1. Whether it had been formerly in use : 2. Admitting this supposition, I was desirous of being informed when it was abolished : 3. Whether it was abolished by being disused, or by an express law : 4. Whether that law is known, and what is the date of it : 5. Whether the practice is the same in this respect throughout all Great Britain. After having, to no purpose, proposed these questions to some lawyers, whose knowledge is confined to the present practice, I was favoured by one of the first men in the profession with the following memorial, which I shall here present the reader.

“ The question or torture was introduced
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with the civil law amongst the nations descended from the ancient Germans; the use of it was unknown in the ancient feudal law. As the civil law never obtained in England, the question never was received in that kingdom, and there are, of consequence, but few tracts extant upon that subject. The laws of England are so averse to this practice, that a criminal detained in prison, is not to be loaded with any more chains than are absolutely necessary to prevent his making his escape; and even in antient days gaolers were not allowed to throw the prisoners into irons. One of our most antient authors, Horne, in his *Mirror of Justice* (chap. v. f. 1. art. 54) says: it is an abuse that a prisoner should be loaded with irons, or put to any pain before he is attainted or convicted of felony." This author lived in the reign of Edward I. Sir Edward Coke, our oracle, speaks of it only in one place, which is the second volume of his *Institutes*, fol. 35. The law requires, says he, that a prisoner should be kept in *salva et arcta custodia*, without suffering any pain or torture. He adds, that in the reign of Henry VI. the duke of Exeter, the duke of Suffolk, and others had a desire to introduce the Roman law, and that they began by placing in the Tower an instrument to give the question with, called in English a rack, but that it went no farther. He cites the 22d chapter of Fortescue, *De laudibus legum Angliæ*, in which that author (chancellor to the prince of Wales, son to Henry VI. whom he followed to France, when the house of York prevailed) enlarges upon the pre-eminence of the English laws above all others in this particular, that they admit not of the torture. He concludes by observing, that there is no opi-

nion or judicial sentence in our books which authorises these torments. What has been said is sufficient to prove, that there never was in this country any torture, to force a person accused to confess his crime or discover his accomplices.

“ We cannot say so much with regard to Scotland. More used than we are to the Roman law, (*non quidem edocti & in eo instituti*) says Craig. Feud. l. 2. tit. 2. s. 8 (*sed propè volentes, cum proprio jure scripto destituantur, solâ naturæ benignitate aut ipsius juris dignitate induciti*). They felt the bitter effects of this before the union of Scotland and England. They compelled the accused to confess their crimes by these tortures. The question was given by putting the legs of the person accused into boots either of iron or wood; wedges were then driven down between the leg and the boot; sometimes the thumbs were pressed hard between two irons. Burnet mentions the torture of the boots in the History of his Own Times. In the 7th year of the reign of queen Anne the question was abolished in Scotland, (7 Ann. c. 72.) by an act intended to cement the union.

“ Those who are not acquainted with our laws, perhaps ran into an error, when they heard mention made of the *peine forte & dure*, and no doubt took it for a species of question; but it is a punishment inflicted for contumacy, and not a torture to force confession. When the person accused refuses to plead, that is to answer the question, *Guilty, or not guilty?* the judge after having exhorted him to answer, and represented to him the consequences of his declining it, pronounces this sentence: *Ducatur in prisonem* (this expression has been retained in English) *& ibidem nudus ponatur ad terram super dorsum suum*

suum directè jacens, & foramen in terrâ sub ejus capite fiat, & caput ejus in eodem ponatur, & super corpus ejus ubilibet ponatur tantum de petris et ferro quantum portare potest, et plus; quandiu vivit, habeat de pane et aquâ pessimis et prisonæ ejus proximis, & illâ die quâ comedit non bibat, atque illâ die quâ bibit non comedat, sic vivendo quousque mortuus fuerit. “Let him be conducted into prison, and there laid naked upon his back, and a hole made in the ground under his head, and his head put into the same, and let there be laid upon every part of his body as great a quantity of stones and iron as he is able to bear, and more; so long as he lives let him have the very worst sort of bread and water, and such as are to be found nearest to his prison; and on the day that he eats let him not drink, and on the day that he drinks let him not eat, continuing in this manner till he dies.” This sentence being once pronounced, the person accused cannot get it remitted by consenting to plead, it must be carried into execution. It has sometimes happened that judges, to avoid pronouncing this rigorous sentence, have, after having exhausted themselves in persuasions, given orders that the thumbs of the prisoner should be squeezed to compel him to speak; but they were not authorised to pursue this measure.

“When a person accused of high treason refused to plead, the sentence ordained against traitors was pronounced against him as one convicted; if the crime was not such as deserved to be punished with death, he was condemned to the punishment inflicted by law. These two cases are excepted out of the general rule.

“The *peine forte et dure*, or the rigorous and severe punishment, which has been looked upon

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as a species of torture, and which seems unfit to have ever been employed, had this advantage, that the criminal dying in this manner without being attainted, his goods were not forfeited to the crown."

"I was told, that in 1745, one of the principal persons concerned in the rebellion submitted to be pressed to death, that his family might not lose his estate.

"To conclude, says Sir Thomas Smith, in his *Treatise De Republicâ Anglicanâ*, it is sufficient that the question has been a low and fervile method of extorting from slaves a confession of their guilt: it is unnecessary to seek for any other reason of the antipathy of the English to that practice. What service can the state expect from a man mutilated by torture? If he be innocent, what indemnity can compensate this mutilation? If he be guilty, why is he punished before his crime is known? Add to this, that the English, who little value death, are exceeding sensible to pain: it is playing a sure game to put them to the torture: whether guilty, or not, they will confess any thing that is laid to their charge. Condemned criminals go to death with an intrepidity unparalleled in any other country, and which is a spectacle of great utility to the people. With what eye, on the contrary, would they behold the prince and the judges, who should establish a species of cruelty so opposite to the genius of the nation?

"With regard to the question which is given before the execution of the sentence, in order to make a discovery of the accomplices, what jury would condemn their peers, if they knew that their sentence is likely to consign them to a thousand torments previous to death? The most ancient
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cient sovereigns of England availing themselves of the contempt of the English for death, have respected their aversion for servile punishments: they made soldiers of those, who, setting no value upon their lives, have shewn themselves sensible only of the ignominy and disgrace."

Criminal justice is exceeding simple in England, with regard to part of the forms prescribed by our ordinances relative to forgery: no note or draught can be proceeded against as counterfeit, till some attempt has been made to negotiate it; otherwise the bare denial of knowing it supercedes all contrary proofs.

I shall now speak of those courts in which justice is administered, not to enter into a detail of their departments and their jurisdiction; this is to be found in all the descriptions of England; and M. de Real has given it in his great work on government. It will be sufficient for me to recollect what I have seen, the particulars that struck me most, and the inquiries which I made upon the spot.

These courts are four in number, the court of Chancery, the King's-Bench, the Common-Pleas, and the Exchequer. They have each of them a tribunal upon the same floor, and joining with Westminster-hall, from which they are separated by a large curtain, which supplies the place of a door*. The court of Exchequer communicates with the porch of that hall by a great stair-case, to which the poverty of the building is conformable, though we are given to

* When the chancellor passes through Westminster-hall, he stops opposite to each court; the curtain is undrawn, and he salutes the judges, who rise and pay him the same compliment.

understand by the late inscription, that it is the effect of queen Elizabeth's magnificence.

The three other courts are uniformly composed of a tribunal capable of holding five or six persons, a bar for the clerks, a box, in which stands the door-keeper, and four benches placed in the form of an amphitheatre fronting the tribunal, each capable of holding twelve persons. The inclosure, which separates them from the tribunal, is but four or five feet long.

Each of these tribunals has upon it three statues as big as the life, representing three of the ancient kings of England, who had most signalized themselves for their love of justice: these are wooden statues, made in the reign of Henry VII. consequently Gothic, and appear to have been cast in the same mould.

The back of each tribunal is adorned with a great piece of blue tapestry, embroidered with flower-de-luces: it has in the middle the arms of England. These hangings have the same sort of work, and the same kind of lace as the arms of France, which hang up in the great chamber of the parliament of Paris; but how great a difference is there in the design and the execution! the very tapestry hanging of the court of Chancery, which was furnished up in the present reign, has, doubtless, been executed upon some old pattern. The name of his majesty, which it bears, as the old ones have those of the kings who caused them to be manufactured, is a Gothic superfluity, and a method somewhat sordid of shewing what prince was at the expence of it.

Upon a table covered with a piece of tapestry of the same sort, are placed five or six volumes in folio, containing, a collection of English laws and statutes, which every person who commen-

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ces a law-suit is at liberty to appeal to*. The business of magistrates is to decide by these statutes according to the rigour and letter of the law, without extending, limiting, modifying, or interpreting them: they are the only oracle, the sole and supreme judge which pronounces and decides. Their authority is superior to that of the magistrates, whose business is confined entirely to the application of them. *Sciant judices*, said Bacon to the English judges, *se jus dicere, non jus dare; leges interpretari, non condere*. Serm. Fidel. c. 54. Nothing is wanting to these laws, but to extend to all cases and all circumstances. Hence almost all trials in England turn upon the question of fact, that is to say, upon the question, whether the matter which gave occasion to the suit, is, or is not, decided by such or such a law. With regard to the fact considered in itself, if the parties cannot compromise the matter, the juries decide it even in civil affairs.

We have still in France the report of *prudent* men, a weak remnant of that ancient jurisprudence. Our old French law was, in this respect, the same with that of England. The establishment of communities in the 11th and 12th centuries, gave the cities their juries, that is to say, a body of men, whom they chose from amongst the common people, resembling the tribunal called the Court of Peers, to whom the disputes of the nobility were referred: the sovereign, or grand vassal, presided over this court in person; and over the body of jurymen by his

* When a party appeals to a precedent, which he thinks may serve his cause, recourse is had to the minutes of these judgments, filed according to their dates.

bailiff.

bailiff. The histories of our different provinces leave no doubt with regard to this regulation ; but none is clearer in this respect than that of the county of Auxerre, compiled by the Abbé le Bœuf. We may, upon this subject, consult the ordonnance of John de Chalons, of the year 1319, relative to those which Peter de Courtenay, and the countess Matilda had already granted to the inhabitants of Auxerre, in 1194, and 1223. Peter de Courtenay declares that if the twelve jurymen, chosen by the inhabitants, happen to be of the same opinion, the bailiff or provost, shall be obliged to judge in conformity to it, tho' he should be of a different opinion himself ; and that this judgment shall be called the court's sentence. He declares, at the same time, that he shall not have it in his power to imprison any citizen, nor seize his possessions, banish him from Auxerre, or cause him to be put to the torture, if the twelve-jurymen, or at least a majority of them, do not consent to it. If in these cases, adds the ordonnance, any of these jurymen happens to be related to the accused, in the second or third degree, he is not qualified to take cognizance of the affair, and he should substitute, in his place, some other person, who is not a relation, and who should swear upon the Evangelists, that he will fill the place of the person excepted against, as he would have filled it himself if he had not been a relation.

In criminal causes, the whole is determined by the juries ; and the counsel, whose assistance the prisoner is allowed to have recourse to, should confine himself to evade, if possible, the decision of the law.

Laws so inflexible, demand, indeed, some mitigation. Thus the Romans judged, who, for a long

long time, knew no other justice but what consisted in the rigid and literal observance of their primary laws. At length they became sensible, that the law judging only by general principles, should sometimes be moderated in particular cases, by that equity which springs from the variety and diversity of circumstances. They created pretors, to whom they assigned the cognizance of certain actions condemned by the law, but favoured by equity, such as entire restitutions, exceptions of deceit, of fear, of minority, law suits concerning wills, substitutions, &c. With regard to these cases, the parties found in the pretor's court a mitigation of the rigor of the law.

The lord chancellor is in England what the pretor was at Rome : his court which he holds by himself, and the appeals from which are carried into the house of lords, is called a court of Equity. All causes are tried by hearings, as at other tribunals, after the action has been admitted upon a bill, in which the party petitions the lord chancellor to grant him, by right and equity, that assistance which the laws refuse him.

I attended in this court a cause highly important with regard to its object. Lord Bath, who long played in England the same part which Mr. Pitt acted lately, died immensely rich, having survived an only son who had plunged into the most extravagant expences: the wealth of the father, and the expectation of the succession, facilitated to the son the means of borrowing money on all sides; but his premature death frustrated his creditors, and left them greatly to seek. Upon the decease of the father, they required, in opposition to his will, that the fortune

tune of the son should be made over to them. I heard this cause pleaded. The lord chancellor, seated alone upon his tribunal, listened to the council, questioned them alternately, pressed them with regard to to the principal facts, made them contradict each other, as well concerning facts as circumstances, and took notes of the proceedings. In the course of the pleadings, from briefs or memorials, of which I have made mention, written upon three or four great sheets of paper, Mr. York, son to to the late lord chancellor, speaking for the creditors, cited in their favour a decision of his father, which he affirmed to have been made in a cause exactly similar. The chancellor affirmed that the cases had not the least resemblance, and proved his assertion by comparing them; in fine, having listened to the discussion of the cause with as much patience as earnestness, he decided it by declaring, that, according to his opinion, the creditors demand could not be admitted: it is in these terms the chancellor decides causes.

It is easy to see how far this great magistrate might abuse his trust, if he were accessible to corruption. That was the crime of the famous chancellor lord Bacon. Nobody ever shewed himself so disinterested in that high office as the famous Sir Thomas More, who replied to the complaints of his wife and children: "Let
 " me alone: your reputation and my life are
 " concerned: you will be rich in the blessings
 " of God and man." The authors who have written his life, inform us, that a nobleman who had a cause depending in chancery, having presented him with two silver flasks of exquisite workmanship, More sent for his butler, and said to him: "Carry that man into my cellar, and
 " fill

“ fill his two flasks with my best wine.”
“ Friend,” said he then to the person who brought them, “ tell your master, that I beg
“ he would not spare my wine if he likes it.”

The high office of lord chancellor is generally the reward of merit: if court-favour sometimes disposes of this post, it is by singling out amongst men of the most consummate knowledge of the law, the most extraordinary talents for eloquence, and the greatest practice in all the functions of magistracy. Its yearly income is 7000*l.* fixed, without comprising the perquisites of the great seal.

It exacts from the person invested with it a continual application and labour. Public and private audiences, the examination of petitions which should never be admitted till the cause is thoroughly known, the keeping of the great seal, the presiding as speaker in the upper house of parliament, the assisting at the privy council and at all the public ceremonies and formalities, the vice-presidentship of the exchequer, the discussion and examination of appeals to parliament: such are the functions, the continued succession of which fills every moment of this magistrate's life. Of all the lord chancellors of England none of them have shone with such a lustre and superiority as the late lord Hardwicke, whose brilliant and numerous posterity are at this day possessed of several of the chief employments in the state.

This great magistrate, who was born at Dover, owed his fortune to his own merit, which, from a low beginning, led him to that high office through all the intermediate posts of the robe and magistracy. Notwithstanding the importance and multiplicity of his occupations he contrived

trived to save an hour or two each day, and these hours thus stolen he employed in reading some first-rate author. In this manner did he in the space of three years, peruse the whole History of Thuanus, inserting in the margin observations upon such parts as appeared to him most interesting: this study was a recreation to him, though it would have been a laborious occupation for weaker heads than his. “I exist all day for the whole kingdom said he to a secret confident of his amusements; it is but just that the whole kingdom should grant me at least an hour, during which I may exist for myself.” Who is not acquainted with the excellent works of More, Bacon, and Clarendon; the agreeableness, depth, and extent of which are such, that one would imagine their authors to have been absolute masters of their leisure?

The chancellors of England, are generally raised to the dignity of a peerage; this employment is a sort of seminary to the house of lords, which does them honour by supplying them with members of tried merit. In spite of Castillian prejudices, this custom has obtained at the court of Spain in favour of such persons as have done the state either long or shining services; and these titles, whilst they perpetuate the memory of services, reflect on those to whom they are granted, and on their descendants, a lustre infinitely superior to that which they might acquire by vain genealogies.

Next to the lord chancellor comes the lord chief justice of the court of King's Bench so called either because all civil or criminal affairs, which are prosecuted in the king's name, must be brought before this tribunal, or because the
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kings sat there at the times that they administered justice in person.

Mr. Murray, honoured with the peerage by the title of lord Mansfield, presides in this court. I have already mentioned his talent for speaking, a talent supported by all the external graces of figure, which are capable of adorning without lessening the dignity of the magistrate.

The court of King's Bench consists only of four judges, comprising the lord chief justice, whose salary amounts to four thousand pounds a year. The salaries of the other judges are two thousand pounds a year each. Justice is likewise administered at the court of Common-pleas, where all causes between private persons are tried according to the rigor of the laws. The lord chief justice of the court of Common-pleas was Mr. Pratt, who has since been dignified with the peerage, and is now lord Camden. The faces of the two lord chief justices suited but ill with their departments: that of lord Camden denoted a criminal judge, that of lord Mansfield a judge altogether civil: with regard to the parties which they adhered to, the difference between them was exactly that remarked by Mr. Addison in his Spectator: lord Camden was devoted to Mr. Pitt, the ministerial party had for one of its chief supports lord Mansfield.

The lawyers who attend the Court of Common-Pleas with the title of serjeants at law are all admitted by the sovereign.

Excepting the circumstance of keeping the seals the twelve judges have the same functions as the lord chancellor, and over and above these they have periodical sessions in several jurisdictions in London, and the assizes which they hold in the country,

country, where they decide all causes upon the spot *.

In a word, these twelve judges, and the lord chancellor, perform in England all the functions, which the parliaments, the masters of requests, and the counsellors of state, chosen from amongst the gentlemen of the long robe, are scarce able to perform in France; the chancellor at the same time attends all the sessions of the upper-house, and conducts its operations.

Their courts, which are by no means striking in their decorations, are reduced by English liberty to depend upon their intrinsic dignity. Spectators seat themselves with very little ceremony. I have seen, when there was a croud there, young persons with frocks as dirty as those who walk the streets of London, fill two or three vacant places close to the lord chief justice.

The judges, whilst they sit upon the bench, have presented to them every day large nosegays, and these supply the place of the perquisites, which such magistrates receive in other countries †.

It is true, that as their places are not purchased, they have no manner of right to sell what they never bought.

* Loyseau, in his Treatise concerning Lordships, Lib. VIII. n. 48. infers from these assizes, from their form and their objects, the conformity between the ancient judicial forms of France, and the present forms of the English, who have borrowed them from us, as well as the ancient laws by which they are governed at this day.

† In the parliaments of France, nosegays were in the same manner distributed to the judges, and this distribution was called giving of roses. See the History of the Parliament.

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The judges are chosen from amongst the serjeants at law : these serjeants retain not only the enormous periwigs worn by the magistrates of France at the beginning of the present century ; but, as a mark of their original condition, they wear a piece of black taffety, called a coif, upon the top of the perwig. I was informed, that the serjeants at law, and the judges, have retained this whimsical ornament, in commemoration of their predecessors being formerly chosen from amongst the most eminent of the clergy.

The knowledge of the law is, in England, one of the high roads to wealth and preferment ; this road is in consequence taken by such younger brothers of the best families in the three kingdoms, as are men of genius, and have a turn for study. The drudgery necessary for the acquisition of this knowledge is as disgusting as arduous. Chichanery has likewise in England a language peculiar to itself, very different from that which obtains in common use ; it turns upon strict forms, which add to Saxon barbarism all the Norman quibbles.

The profession of a barrister affords an honourable and even a comfortable situation in life to those who, after having surmounted the difficulties which attend the study of the law, have a good deal of practice, though destitute of such abilities as might raise them to the highest dignities of the state. Consultations, writings, pleadings, cost very dear, the labour being estimated by the perspicuity and solidity, not by the number and prolixity of the writings.

Whatever relates to the preparing of the process, is the department of the attornies *. Each court

* Attornies and counsellors are indiscriminately called
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court has a number belonging to it, who are admitted by the judges. The attorneys wear no gowns.

The court of Exchequer, which consists of four judges, called the barons of the exchequer, performs all the functions divided in other countries between the court of aids, the chamber of accounts, and the mint: whatever concerns the interests of the king, those of the crown and the the treasury, belongs to this jurisdiction. These judges have the same salaries with those of the Common Pleas, 3000 a year the chief, and the others 2000. To the department of the court of Exchequer likewise belong all such causes as are attended with fines, such as accusation bills and actions for the restoring of possessions, alienations made without the permission of the prince; in fine, seizures, proclamations, disbursements, customs, &c. What concerns the king's affairs is managed in each of these courts by an attorney-general and a solicitor-general.

Lawyers are educated and reside in the inns of court, viz. the two temples, Grays-inn, and Lincolns-inn. These societies are at London the same to the gentlemen of the long robe, as the houses and colleges of Sorbonne and Navarre are to divines: they have like them regular revenues*,

ed by this name in the ancient Norman laws. See Ducange, at the word *Attornati*, and Mr. Howard's Observations upon Littleton, n. 196. In his bull against strolling abbesses, inserted in the Decretals, in Sexto, Lib. III. c. 16. Boniface VIII. requires sovereigns and temporal lords to suffer those ladies to plead by lawyers. *qui attornati in aliquibus partibus dicuntur.*

ties

revenues*, and the administration of them is regulated by nearly the same laws. Admission into the society of the sergeants at law, costs about 500l. for the reception-fees, music, feasts, and finally for gold rings, which the sergeant distributes to the judges and his new brethren:

Young gentlemen at the bar attend the assizes when the judges go the circuit: there they essay their talents. In case of unavoidable absence the judge chuses one amongst the sergeants at law, to supply his place, and pays him for his trouble. The sergeants at law have a right to plead covered in all courts of justice*.

In England, as well as in the republics of antiquity, eloquence is the most esteemed of all accomplishments: dwelling upon the same objects, it leads to the same distinctions and rewards: the Bolingbrokes, the Shaftsburys, the Walpoles, the Carterets, the Pelhams, the Pulteneys, the Pitts, are indebted to this talent for the first dignities in the state. The suffrages and wishes of the nation in favour of these eminent men have more than once prevailed over the desires of the prince, who is frequently reduced to purchase the friendship of persons that have attained a high degree of popularity, and amongst whom he ex-

* Their most considerable revenue arises from the rents of buildings belonging to the respective societies. A large apartment in Lincoln's inn is occupied by the Stamp-office.

† See Ducange at the word *serviens ad legem*, in which he cites these two fine lines which denote the degrees that are past through in the study of the laws:

*Et apprentitius, sergandus post & adultus,
Judicis officium sine notabit eum.*

pects to find only censors and perpetual opposers of his maxims, his system and plan of government.

According to this way of thinking of the English, the greatest men in the neighbouring kingdoms are those orators, who hold the first rank at the bar of superior courts of judicature. Whilst they scarce know the names of the ministers that govern these kingdoms, and are little concerned about knowing them, they are acquainted with the character of such as have distinguished themselves most by their eloquence, whether in pleading the causes of individuals or in the administration of public affairs. In a word, such of the English as have scarce heard of any minister in France since the days of cardinal de Fleuri, pique themselves upon knowing the Daguesseaus, the Iolis, the Gilberts, the Normands, the Cochins, the Laverdis. They think and act in this respect as people thought and acted in France in the sixteenth century, in which the order of advocates supplied the privy council, and the first dignities of the state, with those men who reflected most honour on their employments*, such as the Oliviers, the l' Hopitals, the Pibracs, the Bouthiliers, the Chauvelins, the Montholons, the Arnaulds, &c.

* It is certain, that M. de Thou's History was the cause of his not being raised to the post of first president in 1611; that he was sensible of the affront, and testified his concern to the president Jannin, in a long letter, which makes part of a collection of historical pieces printed at Delft, in 1717. But the honour which equitable posterity has annexed to his name, is much superior to that of being known only from the list of first presidents: *eo ipso illustrior, quid desideratur.*

Those

Those great men may, in the strictest sense, be said to have served an apprenticeship to the magistracy, not thinking it below them to stoop even to its meanest functions. The archives of the archbishopric of Paris represent to us Christopher de Thon holding under an elm, on the 15th of June 1535, the assizes of St. Cloud, in quality of lieutenant of the bailiwick to John du Belley, bishop of Paris. It is this very Christopher de Thou who, having arrived by a gradual progress at the first dignities of the long robe, was in 1562, chosen by the chancellor de l' Hopital, then head of the privy-council of Catherine of Medici, for the place of first president; which he filled during twenty years with the same abilities as he had displayed in 1535, under the elm of St. Cloud.

M. Ellis de Beaumont reaped the first fruits of the prepossession of the English in favour of the French bar, from the manner in which he was received in England. The university of Oxford readily conferred upon him the title of doctor, a title with which foreign princes think themselves honoured when they pay a visit to England. The Royal Society discovered the same readiness to inscribe him amongst its members. This he in a great measure owed to the defence of the family of Calas, and to the decree of council which he had procured in their favour, in opposition to that of the parliament of Toulouse.

England has no subordinate jurisdictions of lords of manors, to which disputes between country people are referred, and where offences are taken cognisance of, in the first instance. The king is the only person possessed of jurisdiction. If the lords have bailiffs or stewards, the limited authority of those officers is reduced to exacting
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their lord's rights from tenants : in a word, the administration of justice in England is still in the same state as it was in France under the second race, according to the account fixed and ascertained by the Capitulars and by the Formularies which have reached us.

Our present jurisdictions of seignories have their origin in the exorbitant concessions * of Charlemagne and his successors, in favour of monasteries : under pretext of securing the tranquillity of those asylums, the diplomas interdict, to all officers or persons who have the royal mandate, the exercise of their functions. In those times of general confusion which succeeded the reign of Charlemagne, the peasants, whether free or bondmen, endeavoured to get habitations near the monasteries, and the monks were ready to receive them. The *advocati*, or *defensores*, belonging to those monasteries, became judges of these new colonies, and availed themselves of the decline of the regal authority to strengthen and extend their jurisdiction ; their usurpations served for a rule or precedent for those rights, which were afterwards claimed by lay usurpers.

Normandy, betimes dismembered from the crown, and abandoned to princes well-informed of their rights, and able to maintain them, retained the antient form, which the Saxon kings likewise preserved in England : if in this respect conquest occasioned any change, it was to the advantage of the royal authority.

* The most important of these concessions are to be found in a collection of French historians published by Don Bcuquet.

France, on the contrary, seemed to have reverted to the state in which Cæsar found Gául, when he incorporated it with the Roman empire: *Principes regionum atque pagorum inter suos jus dicebant, controversiasque minuebant.*

Our jurisdictions of the great lords being the effect of anarchy, civilians have in vain attempted to seek its foundation in the authority of the laws.

“ This subject is an inextricable labyrinth,” (these are the words of the profound and sensible Loyseau :) “ I say it, after having experienced it. Let men read all the treatises concerning customary jurisdictions, and they will find nothing but confusion. Let them peruse all the antient and modern authors that have treated of them, and there is nothing to be seen but absurdity and contradiction. Let them meditate upon them as long as they think proper ; he must have genius, who amongst such variations of time and place, and so many absurdities, can fix on a certain and reasonable determination. We can only dispute at random concerning the regulation of these jurisdictions ; it is a sort of gordian knot, which it is easier to cut than untie: perhaps, his majesty may be inspired with a thought how to deliver his people from this oppression *.”

But our kings have no farther concerned themselves in this affair, than it interested their authority, which had been unknown to the people subject to the jurisdiction of the great lords. In order to restore this authority, by giving it a farther extent, they subjected the lands which held from them, to the jurisdiction of royal bailiffs ; they spread through the country provostships and

* Of Lordships, chap. x. sect. 1, 2.

royal mayoralties; they instituted royal boroughs, and established communities; they engaged themselves, by a public and solemn oath, to render speedy justice to all those that should apply for it to their officers: in fine, in order to restore the sovereign authority, they descended to all the chicanery that had been employed to pull it down.

We may judge of the obstacles which they met with, from those which Lewis VII. had to encounter, when, in pursuance of the system of Louis le Gros, his father, who had favoured the establishment of communities in the lands distant or immediately depending on the crown, he seconded by his authority the project of Guy, count of Nevers and Auxerre, to erect that town into a community or corporation. “Those citizens, say contemporary historians, were for forming a body invested with privileges, which, with respect to military service, and contributions, might serve the king independent of the bishop, and which, being governed by its own laws, should have a seal and a jurisdiction peculiar to itself. The bishop, add they, having opposed this design, and supporting his opposition, minded no expence, and feared no danger.” The king, whom he spoke with upon this subject, said to him with a tone of voice expressing reproach and indignation, “that his opposition betrayed a design to take the city of Auxerre from him and the successors to his crown, who could have no real authority in that city except by the establishment of a community.” The bishop having succeeded so far as to get his opposition referred to the privy council, distributed considerable sums of money to the several members of it, and
frustrated

frustrated the king's design. *. Ten years before that, the establishment of a community at Vezelai had been frustrated by the monks and the abbot of that town, who chose rather to sustain a siege, by *which they were reduced to eat meat without bread*, than consent to an accommodation which was likely to deliver the citizens from the yoke of their authority †. The establishment of a royal bailiwick at Auxerre, by Charles V. in 1371, met with the same opposition from the bishop, who engaged in a juridical ‡ proceeding, in which he was nonsuited by a decree of parliament of the 11th of August 1391.

GOVERNMENT.

To consider Magna Charta as the basis and foundation of the English constitution, is the same thing as to derive the principles of the present government of France from the Salic law. The English notwithstanding, looking upon this charter as the palladium of their liberty, pay a respect to it which almost amounts to idolatry,

* History of Auxerre, by the Abbé le Bœuf.

† The monks of Vezelai were supported in this rebellion by the same Lewis the Younger, who was afterwards so much incensed against the bishop of Auxerre in favour of the inhabitants of that city. The reign of this prince is a concatenation of the like variations. See the Continuation of Aimoin, Lib. v. c. 55.

‡ See the detail of the apparent motives of this opposition in the History of Auxerre, by the Abbé le Bœuf, T. i. p. 253.

and preserve an authentic copy of it with all the care that can be taken of things the most sacred §. By adding to this unexceptionable copy others that resemble it, they behave with respect to this charter, as king Numa did by the advice of the nymph Egeria, to secure the sacred buckler (*ancile*) which was affirmed to have fallen from Heaven on the occasion of a pestilence: lest it should some time or other be taken away by the enemy, many of a like form were made, and placed in the temple of Mars *.

The natural enemy of Magna Charta does not appear at all disposed to supersede it. It is not so much the literal sense of that charter which he has to fear, as the consequences which a nation, jealous of its liberties, is capable of deriving from thence, and which it would unanimously support. This grand charter was not unknown to authors, whether foreigners or Englishmen †, who even in the sixteenth century, reckoned England amongst the monarchies in which the sovereign's power is most absolute and unlimited. The old lawyers, depositaries of the rights of the nation, the Brac-

§ See above, the article MUSEUM.

* Dion. Halicarnass.

† *Vita, caput, auctoritas omnium in principe est.* Smith, de Anglia, inter resp. Elziver. The life, the person, the authority of all is in the prince. *Neque enim Turcarum, Persarum, Scytharum, Britannorum, Abyssinorum reges legibus ullis se teneri volunt, & ut eorum verbis utar, nunquam manus sibi ligant.* Bodin. Meth. Hist. c. 6. p. 313. Edit. 1572. The kings of the Turks, the Persians, the Scythians, the Britons, the Abyssinians, will not allow themselves to be bound by any law; and, to use their own words, have their hands tied up.

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tons, the Fortescues, the Littletons, have, in concert with some modern writers upon the subject of law, sacrificed these rights to the royal prerogative. According to them the king is, in virtue of his coronation both king and pontiff; he is the first bishop, the *pontifex maximus*, the *supremus ordinarius* of his dominions; he is the vicar of God, his rights are the *sancta sanctorum*; he is not bound nor can be bound by any law; to him alone belongs the right to a certain and unvariable property, in fine he can do no wrong, and no body is authorised to oppose his will, or even to contradict and dispute it, because it is founded upon an infallible authority †.

Poncet the traveller was, doubtless, unacquainted with these prerogatives of the Kings of England when giving Charles IX. an account of his many and long voyages, he said “that he had seen all the Christian princes and others, but he had properly seen but one sovereign, namely the grand signior: that he alone had in his hands the honour, the property, and the lives of all his subjects: that in his dominions there are no natural dignities, no princes, no great men, no gentlemen but the janisaries, who call them-

† *Rex Angliæ non potest injuriam facere, non potest errare, nemo de factis ejus præsumat disputare, multò minùs contra factum ejus ire: de chartis & de factis ejus non debent nec possunt justiciarii, multò minùs privatæ personæ disputare.* Bracton. The king of England can do no wrong, can be guilty of no error, nobody should presume to canvass his actions, much less oppose his will: the justices neither should, nor can, dispute his charters, or his deeds, much less can private persons dispute them.

selves the sons of the sovereign lord, and by whom, without consideration of race or parentage, all are kept to their duty: that in this empire there is no religion but that of the prince, no lands, no funds belonging to private persons; no fortresses except on the frontiers; no rank, no consideration but in proportion to the share people have in supporting the supreme authority*.

An ambassador from the republic of Venice at the court of queen Elizabeth, thought he could discover in the government of England the principles and effects of the despotism of the Porte. The reader will be astonished at his expressions to this purpose, in the relation of his embassy, printed in the volume stiled *Anglia*, which makes part of the Little Republics of the Elzevirs †.

Mr. Hume ‡ found, in the last will of king Alfred, a title still more ancient and more express than Magna Charta, in favour of English

* Hist. by D'Aubigné, Tom. II. l. iii. c. 2.

† *In toto regno atque in omnibus consultationibus regia voluntas sola attenditur, cum reges absoluti sint domini & monarchæ. Ne soli videantur esse in regimine, vel propter inertiam vel ob superbiam & pompam, instar Turcici imperii, induxere concilium principum officialium qui ad instar Bassarum congregantur, &c. &c. p. 395, & seq.* In the whole government, and in all consultations, the will of the sovereign is alone attended to, the kings being absolute lords and monarchs. Lest they should seem to govern alone, or in consequence of sloth, or pomp, and pride, like the Turkish sovereigns, they have introduced a court of chief officers, who are assembled like bashaws, &c.

‡ Hist. of England, Vol. I. p. 94.

liberty. “ Alfred, says he, declared in express terms, in his last will, that it was just the English should be as free as their own thoughts.”

Struck with this wish, which intimates more in two words than the whole context of Magna Charta, I consulted Alfred’s will, published with the life of that prince by bishop Asher, an author of the ninth century†: the passage which Mr. Hume had in view is as follows: *In nomine domini et omnium sanctorum, exhortor quod nemo consanguineorum meorum in posterum contra aliquem meae consanguinitatis laboret, quovis modo, quoad ea quae ego ipsis dedi aut legavi: et mecum tota nobilitas West-Saxonicae gentis consentiunt quod me oportet EOS dimittere ita liberos, sicut in homine cogitatio ipsius consistit.* “ In the name of the Lord and all his saints, I exhort that none of my relations shall hereafter prosecute or disturb any of my kindred, on account of those things which I have given or bequeathed to them; and the whole nobility of the West Saxon nation agree, that I should leave *them* as free as thought is in the human mind.”

Now this passage seems to relate not to the West Saxon nobility but the Athelings, the princes of Alfred’s blood, with regard to the estates, the perpetual possession of which he had secured to them with the consent of that nobility, by exempting them from all duty to the kings his successors, who are meant by his *consanguinei in posterum*, that is to say his heirs in contradistinction to the legatees or donees *consanguinitatis suae*. It is to the latter that the *Eos* of the will seems to have the most immediate relation.

† In Camden’s Grand Collection, p. 22.

As matters stand at present, it was natural that this passage should offer to an English eye, Alfred the Great, Alfred the first legislator of England, Alfred the founder of the English monarchy, establishing that monarchy upon the principle that every Englishman *ita sit liber, sicut in homine cogitatio ipsius consistit*.

England owes its present form of government to the troubles, and afterwards to the revolutions which settled the crown on Charles II. on king William, and on the house of Hanover, as well as to the capitulations which the nation had the address to obtain in those critical conjunctures, when the revolutions of state followed each other so close as to be reducible to a regular system. The king has still preserved that combination of power and authority to which Henry III. reduced himself, when pressed by the forces of the league. “His majesty, said he, by the mouth of M. de la Guesle, his attorney-general, desires to have a sovereign and infinite power in doing good; but as to dispensing with or weakening the observance of useful laws, he consents that his power and authority should be limited *.

Such

* Memoirs of Guil. de Taix, concerning the states of Blois, p. 35. *Digna vox est majestate regnantis, legibus alligatum se profiteri: adeò de auctoritate juris nostra pendet auctoritas; & reverà majus imperio est submittere legibus principatum, & quod licere nobis non patimur, aliis indicare.* “It was a saying worthy of the majesty of a sovereign, to acknowledge himself bound to observe the laws, so much does our authority depend upon the authority of the law; and, indeed, it is the greatest command to subject the royal authority to the laws, and

Such was in Rome the language of the Trajans, and of the Antoninus's; such was in France that of Lewis IX. of Charles V. of Lewis XII. and Henry IV. Thus did the famous queen Elizabeth express herself in England, at a time when an unlimited power constituted the chief article of her prerogative. That princess having revoked certain exclusive privileges, which she had granted, without immediately perceiving the ill that resulted from thence to the public, answered the thanks which were returned her by the parliament, by a speech which the English have preserved with the utmost care, and which became one of the first causes of their profound veneration for her memory. She was then in the forty-third year of her reign. I shall here insert that speech, which will not, in this place, appear to be foreign to the purpose: such monuments cannot be too often laid before the public.

“ Gentlemen, I owe you hearty thanks and commendations for your singular good will towards me, not only in your hearts and thoughts, but which you have openly expressed and declared, whereby you have recalled me from an error, proceeding from my ignorance, not my will. These things had undeservedly turned to my disgrace (to whom nothing is more

and what we do not allow ourselves, point out to others.” In this manner did the emperors Valentinian and Theodosius II. express themselves concerning their authority in a law inserted in the first book of the Code, Title 14. With regard to this law, Cujas examines how, and to what degree, the emperors were subject to the laws. Observ. xxx. c. 15.

dear

dear than the safety and love of my people) had not such harpyes and horse-leeches been made known and discovered to me by you. I had rather my heart or hand should perish than that either my heart or hand should allow such privileges to monopolists, as may be prejudicial to my people. The splendor of regal majesty hath not so blinded mine eyes, that licentious power should prevail with me more than justice. The glory of the name of a king may deceive princes that know not how to rule, as gilded pills may deceive a sick patient. But I am none of those princes: for I know that the commonwealth is to be governed for the good and advantage of those that are committed to me, not of myself to whom it is intrusted; and that an account is one day to be given before another judgment seat. I think myself, that, by God's assistance, I have hitherto so prosperously governed the commonwealth in all respects; and that I have such subjects; as for their good I would willingly leave both kingdom and life also. I beseech you, that whatever misdemeanours and miscarriages others are guilty of by their false suggestions, may not be imputed to me: let the testimony of a clear conscience intirely in all respects excuse me. You are not ignorant, that princes' servants are oftentimes too much set upon their own private advantage; that the truth is frequently concealed from princes, and they cannot themselves look narrowly into all things, upon whose shoulders lieth continually the heavy weight of the greatest and most important affairs."

M. de Montesquieu has placed the spring of the present government of Great Britain in the continual play of the passions, of envy, of jealousy, of eagerness in the subjects to make fortunes

tunes and distinguish themselves, which the national liberty allows them to indulge in their full extent." From the conflict of these irritated passions arise those factions and parties, which, like the waves of the troubled ocean, after having violently dashed against each other, coalesce into one body, in order to separate and divide again upon the rising of the next tempest.

With liberty, and with pride, or if you chuse to call it so, the haughtiness which attends it, it would be contrary to the nature of things that the interests of different bodies, and of each individual, constantly united by national interest, should form only one party. Sentiments so uncommon, so sublime, displayed themselves only in the middle age of the Roman republic, which they led on to the conquest of the world. Both in its beginning and in its decline the state of that commonwealth was the same in which England is at this day: but the republicans of antiquity had not the resource of public papers, and all those other helps which the art of printing at present affords.

The government of England is divided between the king, the house of lords, which supplies the place of the senate in ancient republics, and the house of commons, which represents the people; a mixture which gives this government some resemblance to that statue seen by Nebuchadnezzar in the vision explained by Daniel *.

* *Hujus statuæ caput ex auro optimo erat, pectus & brachia de argento, pedum quædam pars ferrea, quædam fictilis.* Daniel, c. xxi. The head of this statue was of the finest gold, the breast and arms of silver, part of the feet was of iron, part of earth.

I leave

I leave it to others to calculate the law, and combine the effects of the mutual action and re-action of these three powers †. With regard to the right which each of them, separately considered, may have to the preference ;

For forms of government let fools contest,
Whate'er is best administer'd is best †.

I shall speak only of the appearance which these powers make in the eye of a foreigner * ; after having observed that the spirit of party, now predominant in both houses of parliament, is,

† It would be difficult to add any thing to what M. de Montesquieu has said upon this subject. *Spirit of Laws*, l. ii. c. 6. We must not confound with the senseless criticisms which have been levelled at the *Spirit of Laws*, the xiiith, xivth, and xvth chapters of the abridgment of Bodin's Republic, published in 1755. The author there discusses with equal solidity and perspicuity the views of M. D. M. relative to the English constitution and liberty.

† Essay on Man, Epist. iii. If with regard to this grand question we consult the most enlightened and wise politician of antiquity, I mean Xenophon, who had lived under all the forms of government, the inconveniences and advantages of which he had made trial by his own experience, we must without hesitation, give the preference to a limited monarchy. He thought like Plato upon that important subject, and both had imbibed the sentiments of Socrates, their common master. See in the Foreign Journal an excellent Dissertation upon Xenophon.

* *Omnium magnarum rerum, sicut arborum, altitudo nos delectat ; stirpes autem et radices non item.* Cic. Orat. The loftiness of all great things, as of trees, delights us ; but their trunks and roots give us no sort of pleasure.

with

with regard to the constitution, a sure preservative against those grand oppositions of one body in the state against the other, which at Rome gave rise to civil wars and proscriptions, and was attended with the ruin of the commonwealth.

In fact, the same factions are frequent in England in both houses of parliament, and far from alienating them by raising a wall of division, they, on the contrary, bring them together, and become the means of uniting them more closely. Like those ebullitions of humour to which man is exposed in proportion to the strength and vigour of his constitution, these factions are symptoms and effects of the strength of a state, which one of the most enlightened political writers † has placed in the vigour and energy of the component parts. Cromwell found means to awe and intimidate the factions, upon the ruins of which he had built his greatness: at his death they regained the ground which they had lost; and the restoration of Charles II. was the work of these factions ‡.

The union of the three powers in the house of peers is the grandest sight which England can present to the eye of a foreigner: I had the happiness of enjoying this sight several times: the care of introducing me and procuring me an advantageous place, made part of the attention, with which lord Temple was so good as to honour me.

The king, invested with all the ornaments of his dignity, and accompanied by his brothers,

† Gravina, de Legibus & Senatusconsultis.

‡ See Mr. Hume's *Dissertations upon Parties*, amongst his *Political and Moral Essays*.

mounted his throne without any other guard than that which surrounds a father in the midst of his family, confidence and respect. The lord chancellor and the judges were seated at his feet, upon four great wool packs, in a quadrangular figure. On the right of the throne stood the spiritual lords: the temporal peers filled the remainder of the inclosure, at the bar of which stood upon a step the speaker and other members of the house of commons.

Nothing is wanting to this august assembly but a place answerable to its majesty, a place that might vie with the grandeur and magnificence of Ranelagh. The house of peers, in which it is held, is a narrow hall of so little extent, that oftentimes* part of the lords, finding it entirely occupied, either remain confounded with the people who crowd the outside of the bar, or are under a necessity of retiring. The king himself finds it difficult to get to his throne, through the multitude which surrounds it†. The furniture is suited to the simplicity of the place: the four woolpacks and plain benches fill the inclosure; the pannels which separate the windows, formed of little panes, are adorned with old tapestry of the sixteenth century, on which is represented the defeat of the invincible armada. The throne, raised upon a few steps and covered with a canopy, is the only ornament that strikes the eye. The king never sits on it except with the crown upon

* This I was an eye-witness of at the session that was held on account of the regency-bill: the inside was filled in a great measure by a number of ladies.

† Ambassadors and foreigners, introduced by lords, form this multitude.

his head, the sceptre in his hand, and the royal mantle over his shoulders. Of all the different sorts of dress which fashion could devise, none shews majesty to greater advantage than these antique ornaments.

The sessions of a British parliament are a faithful representation of those held by our kings in the thirteenth and fourteenth centuries. To be convinced of their exact resemblance, the reader need only cast his eye on the contemporary description given by M. Lancelot in the tenth volume of *The Memoirs of the Royal Academy of Inscriptions and Belles Letters*, representing the session solemnly held by Philip of Valois to condemn Robert d'Artois.

Philip, invested with the regal ornaments, and seated upon his throne, had, at his right hand, the kings of Bohemia and Navarre; somewhat lower sat eight lay peers; on the other side the ecclesiastical peers filled a bench, which stood in a parallel direction. At their feet sat upon the ground the members of parliament, and the officers deputed to that meeting *.

Sauval

* The count, who was tried and condemned at that session, acted in the same manner as the constable de Bourbon did some time after; he stirred up England against France: *Troja et patriæ communis Erynnis*. He had, notwithstanding, contributed more than any other person to raise Philip of Valois to the throne, who, as a return of gratitude for so important a service, in 1328, erected his estate of Beaumont-le-royer into a peerdom. I have taken from an old register of parliament, and shall here lay before the reader, the letters of erection of that peerdom in favour of a person equally interesting both to France and England.

His

Sauval considers the mat, which in winter covers the inclosure of the bar of the chambers of parliament,

His pretension to the county of Artois was not without foundation, if we may believe Messieurs de St. Marthe, in their history of the royal family of France, and the accession of Philip to the Gallic throne formed a legal prejudice in his favour. The gratitude of Philip would, doubtless, have declared for him, had it had all that warmth with which the king expresses himself in the following letters.

Philippus Dei Gratiâ Francorum rex: notum facimus universis, tam presentibus quam futuris; quòd nos, juxta legem nobilitatis, & sponte tribuere & in beneficiis—nobis convenientissimum arbitantes, illam non immeritò perniciem abhorremus quæ merentibus prima substrabat præmia cum quibus ex exuberantiâ meritorum, propinquitate & perspicuâ servitute pensatis, nostræ liberalitatis immensitas et mensura, quorum lucem nec sub medio convenit occultari, sed splendorem à candelabro luminis rutilantis longè latèque radiorum fulgore diffundi. Claram igitur carissimi & fidelissimi Roberti de Atrebatensio, comitis Bellimontis fratris nostri, propagationem persantes, suorum insuper strenuitatem actuum, sanitatem consilii, laboris assiduitatem ultronei, quibus nobis & predecessoribus nostris in regno nostro liberalitèr & libentèr adesse curavit, & cum promptitudine multifor-
mi, solertèr institit; comitatum suum Bellimontis prædicti, in Pareriâ Franciæ, prædicto comitatu, temporibus perpetuis ereximus & erigimus, erectum & creatum decernimus per presentes, præfatum comitem fratrem nostrum in parem Franciæ ratione suorum comitatûs & Pareriæ prædictorum, similiter erigentes & pragmaticâ sanctione perpetuò valiturâ decernimus quòd ipse, successoresque sui et heredes ad quos dictum comitatum Bellimontis in posterum legitimè devenire continget, ipsum*

* He had married, in 1318, Joan of Valois, fruit of the second marriage of Charles of Valois, father of Philip, with Catharine of Courtenai.

parliament, as a remnant of this last custom. Its place has been supplied in England by wool-packs ;

comitatum in pareriam, et ut Pareriam Franciæ teneant, dictusque comitatus, cum omnibus pertinentiis suis, Pareria Franciæ sit et perpetuò nominetur ; dictusque frater noster, simili modo par et comes : similem ejus heredibus et successoribus universaliter et in solidum in dictis comitatu et Pareriâ sub nomine dignitatis succedentibus, elargientes honorem. Porro immunitates, honores, privilegia, nobilitates, libertates et jura quæ paribus regni Franciæ ratione pareriarum competent seu competere dignoscuntur ab olim, præfato fratri nostro, comitatu et Pareriæ, suis heredibus et successoribus in comitatu et Pareriâ supradictis concedimus et donamus ; privilegiis, libertatibus, juribus, et immunitatibus quæ sibi & comitatu prædicto antea competebant, in suo robore nihilominus duraturis. Desinientes ex certa scientiâ & de plenitudine regiæ potestatis premissa omnia & singula, volentes & statuentes & pragmaticè decernentes. Dignum namque sicut rationi convenit, arbitramur ut idem frater noster, sicut de stirpe regum Franciæ claram & propinquam originem traxisse non ambigitur, comitatu & Pareriâ predictis perpetuò connexis & eorum juribus tanquam regni Franciæ radiis illustretur, & heredes et successores habeat dignitatum perpetuo splendore coruscantes : in cujus honore nostrum augeri agnoscimus, successoresque nostros nobiliores suorum dignitate. Quod ut firmum et stabile perseveret, nostrum fecimus præsentibus apponi sigillum. Actum Parisiis Anno Domini MCCCXXVIII, Mense Junii.

Philip by the grace of God king of the French : we make it known to all, as well those who live in the present age as to posterity, that thinking it properest for us to return favours according to the law observed by noble minds, both of our own accord and to reward merit, we justly abhor that vice which deprives the deserving of their first reward, with whom, on account of the exuberance of their merits

packs ; and in France by those plain stools spread up and down the court.

At

merits estimated according to their nearness to us and their making themselves conspicuous in our service, the immensity of our liberality is the only measure, whose light should by no means be hid under a bushel, but its brightness be diffused on all sides with refulgent rays. Reflecting therefore on the noble family of our dearly beloved and most faithful Robert of Artois count of Belmont, descended from our brother, as likewise on his own prowess, wisdom in council, and industrious application, whereby he served both us and our predecessors in our kingdom generously and freely, and with the utmost alacrity and good will ; we therefore have erected, and declare by these presents erected and created his county of Bellmont aforesaid into a peerdom of France in the said country, for ever ; and we declare by these presents the said count our brother erected and created a peer of France on account of his earldom and peerdom abovementioned ; at the same time we decree by the pragmatic sanction, which will for ever subsist, that he and his successors and heirs, to whom the aforesaid county of Bellmont shall for the future lawfully belong, shall hold said county as a peerdom of France ; and that said county with all its appurtenances shall be a peerdom of France and always be called so ; and that our said brother shall likewise be called in like manner a peer and a count : conferring the same honour upon his heirs and successors, universally succeeding to the same dignity and peerdom in his name. We likewise grant and make over the immunities, honours, privileges, titles of nobility, liberties and rights which belong to the peers of the kingdom of France, to our said brother, to his county and peerdom, and to his heirs and successors in the county and peerdom above

At that time the judges in France *, being but few in number, were simple commissioners, whose places could be resumed *ad nutum* †. The
parliaments

bove-mentioned; the privileges, franchises, rights and immunities which formerly belonged to him and the said county being notwithstanding to remain in their full force. Determining from our certain knowlege and the plenitude of our kingly power all and each of the particulars above premised, willing them, determining them, and pragmatically decreeing them. For we think it fitting, as it stands of reason, that our said brother, since it is not doubted that he is nobly descended from the royal family of France, should be rendered illustrious by the above county and peerdom perpetually connected, and by their rights as by rays of the kingdom of France; and that he should have heirs and successors to his dignities shining with perpetual splendour: in whose honour we are sensible that ours is increased and that our successors are enobled by his dignity. That this may therefore remain firm and unshaken we have caused our seal to be affixed to these presents. Given at Paris in the year of our Lord MCCCXXVIII, in the month of June.

* The English judges come to the upper house only to instruct the lords in points of law, and to regulate the forms of acts, but they have no deliberative voice.

† See Loiseau Of Officers, p. 1. c. 3. and b. 3. c. 3. the History of Languedoc, &c. *Quia multæ magnæ causæ in nostro parlamento inter notabiles personas & magnas aguntur; ordinamus et volumus quòd duo prælati & duæ aliæ sufficientes personæ laicæ de nostro concilio, vel saltem unus prælatus & una persona laica, causas dictas audiendi et deliberandi gratiâ, continue in nostris parlamentis existant.* Art. 45 of Philip the Fair's ordinance of 1302. Be-
cause many important causes between great and no-
table

parliaments were held by terms, in virtue of letters patent issued for each term; the intervals between them were filled by the grand court or great days, and by the assizes which the judges went to hold in the country. The only judge of the bailiwicks and seneschals jurisdictions was at that time the bailiff or seneschal, and afterwards his deputy; this judge, in deliberating upon the most knotty points, chose out assessors amongst the advocates, who had only the title of practitioners. That magistrate united, in the principal seat of the bailiwick, the functions at present divided in each town, between the bailiwick, the presidial, the provostship, the mint chamber, the election, the salt-office, the police, the waters and forests, and the customs; the appeals from his judgments were laid before the only tribunal which the nation had at that time, the court of parliament.

England has retained this unity of tribunal: a unity, said lately one of the oracles of the parliament of Paris, desirable in a monarchy, and which is to be found in France, at least as there was not originally more than one court of justice*.

The reign of Lewis XI. is the first æra of a revolution in this respect. The new system is the subject of a long declamation, in which the author of Anti-Machiavel † inveighs against

table persons are pleaded in our parliament, we command and direct that two persons, prelates and two other sufficient persons of the laity, should constantly attend our parliament, in order to hear and deliberate.

* The requisitory of Mr. Segnier, against the edict of the chamber of accounts.

† Anti-Machiavel, lib. iii. max. 35.

there

the maxim of that politician : that, in order to have justice well and expeditiously administered, there should be a considerable number of judges ; because few do but little business, and a small number is more easily corrupted.

The perseverance of England in the system originally common to the two nations, is a consequence of the attachment of the English to their old laws : perhaps it proves more against the new system than all the declamations, which turn upon the multiplicity and * venality of the posts of judicature.

At least these posts, and the bodies which they have created, form an intermediate power in the state, which England wanted at the time that its monarchs enjoyed unlimited authority. Charles VII. and Henry VIII. found in these bodies an entrenchment which the enemies of the crown were not able to force : these bodies have laboured in a manner equally efficacious for the good of the people, when it was their supreme law.

* In Lucian's Dialogue entitled Jupiter the Tragic, Mercury perplexed concerning the places which he shall assign the gods convened in a general assembly, says to Jupiter, who had ordered him to regulate precedence according to the metal of which each god was composed : " Shall I place a golden god of rude workmanship before the brazen gods made by the hand of Myron, or before the stone gods which are the work of Policletus, Phidias, or Alcamenes ; and does not the excellence of the workmanship deserve a preference ? That would perhaps be better, answers Jupiter : But place the golden gods in the first rank. I understand you, replies Mercury ; you would have the preference given to riches in the distribution of places.

M. de Montesquieu concludes, from England's having deprived itself of these intermediate bodies, that it has at present no medium left between slavery and liberty. But it should be observed, 1. That the state of magistracy was always the same there as at present, and such as it was in France till the branch of Valois came to the throne. The administration of justice was in the hands of a small number of judges, chosen and nominated by the king; and at the same time they composed his privy counsel. We have seen above, in the narrative of the state of England drawn up in the reign of queen Elizabeth, by an ambassador of Venice, the power of the kings of that country compared to that of the grand seignior; and the authority of their judges to that of the divan, composed of those bashas, whom the prince thinks proper to nominate to a seat in that assembly *. Now a body which has only a precarious

* M. de Voltaire making use of the privilege which heroic poetry has to depict as present, either that which is past, or that which does not yet exist (*vocat ea quæ non sunt, tanquam ea quæ sunt*) presents to the eyes of Henry IV. in the reign of Elizabeth, the government of England such as he had seen it under George II.

*Aux murs de Westminster, on voit paroître ensemble
Trois pouvoirs, étonnés du nœud qui les rassemble,
Les députez du peuple, et les grands, et le roi
Divisés d'intérêts, réunis par la loi :
Tous trois membres sacrés de ce corps invincible,
Dangereux à lui-même, à ses voisins terrible.*

“ Within the walls of Westminster, we behold three powers assembled, who are surprised at their own bond of union, the representatives of the people, the nobles, and the king, divided by interests,

carious existence was never an intermediate power.

2. The clergy was the only power in England which could properly be called intermediate: the nation divested itself of this power when it concurred with Henry VIII. to shake off the yoke of the clergy, by renouncing the pontifical authority.

That yoke, common to all the sovereigns in Europe, was in a particular manner heavy upon England, as appears from the facts laid before the reader above*.

By what enchantment was all Europe brought to submit to it? By the influence which superior geniusses, who know how to avail themselves of an opportunity, and sometimes even to start it, have over weak minds.

In the midst of those sovereigns, who had just shared amongst themselves the spoils of the race of Charlemagne, and whose authority, counterbalanced by that of the great vassals, differed but little from a real anarchy†, the popes of the tenth

F 2

and

rests, but united by law; all these sacred members of that invincible corps, which is dangerous to itself, and terrible to its neighbours."

* See above, the articles Catholics, Puritans, Architecture, &c.

† Under the successors of Charlemagne, Europe was a long time, and still is, in many respects, in the same state in which the empire of Alexander was under that conqueror's successors. Bloody and constant war, conquests as ruinous as unimportant, fraudulent negotiations, captious treaties, efforts to establish between powers an equilibrium, continually broken by those very efforts; such are the common strokes of the picture presented to us by the history of

and eleventh centuries saw the califs exercise over Asia and Africa a despotic power, and enjoy the full right of sovereignty over the several states, which since the establishment of Mahometism had formed themselves in those countries: the quality of vicar of Mahomet was in those pontiff kings, the sole and uncontested title of an empire, the knowledge of which Europe had acquired by pilgrimages and voyages beyond sea *, by the holy wars, and finally by the conquests and establishment of the Moors in Spain.

By

of the successors of Alexander and Charlemagne †. Thus was the prediction of Cerealis verified, and thus it continues to be verified to this day: *Pulsis Romanis, quid aliud quam omnium inter se gentium bella existent?* The Romans being defeated, what other prospect remains but that of wars among all the nations of the earth? Tacit. Hist. lib. iv. sect. 10. Plutarch saw futurity with the same eye, when he considered the Roman empire as an anchor which supported and upheld the globe in the midst of a stormy sea.

* The commerce established by these voyages, and by the Crusades, between the three parts of the known world, transmitted to Europe, with the leprosy, a multiplicity of new ideas, and customs, both civil and religious. Views relative to commerce growing familiar both to the people and to sovereigns, established manufactures, peopled cities, encreased their circumference, distributed the water necessary for the conveniency of trades-people, established public baths, and procured to some of those cities public fountains. In imitation of the models which they had seen in the East, our masons became architects, and executed in the taste which we call

† D'Herbelet, Biblioth. Orient. & Hist. of the Califs by M. de Marignay.

By a consequence of principles equally dear and honourable to Christianity and the Christians, the popes, who likewise assumed the title of vicars of Jesus Christ, thought themselves called to the exercise of the same power; and that ambitious pretension, connected with conscience and religion, being entertained by men of strong parts, was carried on with that ardour, resolution, and regularity of plan, necessary for a project as vast in its extent as in the variety of circumstances attending the execution of it.

Gothic, and which might with greater propriety be called Arabic, those monuments, whose magnitude, boldness, and ease, we admire to this day. Europe was filled with hospitals and hospitallers. The dervises and fakirs, with whom the East was overspread, gave birth to the new orders of men who make vows of poverty. The feudal law, by which the empire of the califs was governed, prevailed all over Europe, where it introduced chivalry, romances, and poetry in rhyme. The sciences, which long flourished under the Arabians, passed over to christian states together with universities, their regulations concerning studies, and their degrees. (See the Voyage of Leo Africanus). In a word, we brought back from our voyages beyond sea the use of beads, which had long obtained in the East, and the invention of which the Jacobins and the Carmelites dispute with each other; each of these two orders ascribing to its founder the honour of having received it immediately from the hands of the mother of God. See Olearius's Voyages concerning the Antiquity of the Rosary and its Divisions in Persia.

Christ had left his church no means calculated to promote this success: the popes supplied the want of them by the establishment of new orders, either military or religious, that is to say, of militias immediately subject to their command *; by the institution of universities, in which they established a doctrine agreeable to their pretensions; by the publication of counterfeit decretals, adapted to the new designs; by the crusades, which they commanded as generalissimos; by the creation of the inquisition and its sanguinary code; by enslaving the first order of the clergy, whom they divested of their dignity; by multiplying bishopricks, by lavishly bestowing exemptions, by reuniting to the tiara the whole plenitude of the episcopal authority, by binding the bishops to take an oath, which those of France still swear in the presence of the nuncio; by totally suppressing the clergy of the second order; by the excommunication of sovereigns, and ex-

* The spirit of all these new bodies, says Mezerai, was turned to begging, and they were almost all called wallet-bearers. They had no other means to insinuate themselves into the church, without alarming the ancient orders, which having shared amongst themselves the fat of the land, had, at the council of Lateran, obtained from Alexander III. a decree, expressly forbidding the establishment of new orders. The poverty which they professed reconciling all interests, they were the grasshoppers which consumed what the worm had not devoured. With this external appearance, so little to their advantage, they notwithstanding became so powerful, says the same Mezerai, that if they had made a prudent use of their prosperity, of the favour of princes, and the affection of the people, they would have become masters both of church and state.

citing

citing their subjects to rebellion ; in fine, by a thousand methods the more artfully combined, as by mutually supporting each other, they all contributed to the execution of the main design †.

The plan was fixed upon, the foundations laid, and the scaffolding erected when Gregory VII. was promoted to the papal dignity : he raised the structure, finished it, brought it to perfection, and left his successors only the care of keeping it in repair.

The enterprize was the more delicate and the success of it the more surprising, as the temporal

† I found with astonishment these means displayed, and put in a proper light, in the account of the country of Papimania, by Rabelais, whom a long residence at Rome among persons entrusted with the conduct of the most important affairs, and an unwearied application, had furnished with uncommon lights, which he applied to Roman politics : this narrative would be alone sufficient to justify the judgment past upon that merry writer by an author as delicate as his authority is unsuspected : Rabelais, with much wit and reading, had an art peculiar to himself, of saying many things in jest, that conveyed good instruction, and often of uttering impertinencies without tiring the patience of the reader." Fontenelle, *History of Oracles*, c. 18. The letters of John du Bellais, which form the capital part of the proofs of the history of the divorce of Henry VIII. are exceedingly interesting, by reason of the anecdotes they contain, and likewise on account of a thousand strokes of raillery and mirth, which seem to discover the pen of Rabelais, who then attended John du Bellai, with the title of secretary. If these strokes came from the ambassador himself, he deserved to have Rabelais for his confidant, his guest, and his friend : he, doubtless, was of opinion, that gaiety is no way prejudicial to business.

power was then supported by the emperor Henry IV. a champion who exhausted all the resources of policy and courage, to untie or break the knot with which the pope attempted to bind him; a champion who having obtained forty victories, in spite of the numerous bulls of excommunication condemning him to gain no more, would have brought the popes to reason, if he had not been abandoned by all the sovereigns in Europe, whose common cause he asserted, but who thought their power confirmed by the weakening of the imperial authority.

The successors of Gregory VII. have, through gratitude, enrolled that pontiff amongst the saints: philosophers, well versed in history and acquainted with the revolutions which have changed the face of the earth, will more properly place him in the same class with those extraordinary persons, whose profound views and dauntless courage have determined those revolutions.

Boniface VIII. afterwards merited an apotheosis on the same account. Gregory VII. and his successors, whose sole aim was to extend the pontifical power, had neglected the ornaments and external signs which announce it: this negligence, whether the effect of pride or policy, was agreeable to the maxims which prepared the Romans for the conquest of the world *. Till the days of Boniface VIII. the papal mitre, which was shaped like a sugar-loaf, had nothing to distinguish it from these of other bishops. That pope added to it two crowns, to which his successors have joined a third; and these three crowns, which at present form the tiara, were emblems of supreme

* *Apud Romanos jus valet imperii, cætera transmittuntur.*

monarchy over the three parts of the then known world: a meaning clearly indicated as well by the name of the tiara, which at the Vatican is called *il regno*, as by the terms of the proclamation which to this day accompanies the coronation of the pope: *Scias*, says the person who reads it, *te esse patrem (alias regem) regum et principum, rectorem orbis*. The adoration, which the popes caused to be paid to them, was likewise an imitation of the homage which the califs received from the people and from the Mahometan princes who approached their throne: they made them three profound bows, at the second they prostrated themselves, at the third they kissed the ground upon which they trod *.

Gregory VII. and Boniface VIII. not yet attempting to claim infallibility, had neglected to avail themselves of the surest engine that could enable them to reign over the temporal by the spiritual power; this discovery was reserved to the canonists of the fourteenth and fifteenth centuries, and to the casuists, most of whom were Jesuits. Before this discovery, universal monarchy appeared to St. Bernard to be a mere whim †; but he would have thought otherwise of it, if in

* See d'Herbelot, and the 49th chapter of the thousand and one nights.

† *Si usurpare audes aut dominans apostolatam, aut apostolicus dominatum, planè ab alterutro probiberis: si utrumque simul habere velis, perdes utrumque.* De Conf. l. ii. c. 6. "If whilst you govern, you desire to assume the apostolical character, or whilst invested with the apostolic character grasp at power, you must be disappointed in one of your aims. If you are ambitious of both, you lose both." A prediction in part accomplished by the protestant states withdrawing their obedience from the see of Rome.

his time infallibility had been erected into a dogma.

The court of Rome, appears at present, if not to have been abandoned, at least to have lost sight of these ambitious claims; but, unshaken in her principles, she knows how to comply with the times, to take her measures according to circumstances, and to wait with patience for revolutions which are often the work of time and fortuitous contingencies. Her political code is that which a German wanted to introduce in physic by the treatise, *De modo Curandi Morbos Expectatione*, Men, who are sufficiently phlegmatic, patient and supple to carry on this plan of policy, find it so much the surer method, as in matters of opinion the human species in general, and each individual in particular, being subject to variations ever advantageous to those who know how to avail themselves of them, are constant only in their inconstancy. It is by this art that the popes have succeeded in rendering their election independent, first of the confirmation, and then of the concurrence of the emperors: it is by this art that Clement XI. in our days came off victorious in his differences with the court of Vienna, and with the regency of France after the death of Lewis the XIV. That pontiff had found, by his own experience, in the most brilliant period of his reign, how much the Roman phlegm has the advantage over the *furia Francese*.

No author, that I know of, has considered the government of the Mahometan califs as the principle and seed of the claims of the court of Rome to universal monarchy. This discovery to which I have been led by the identity of the epochas, may justify, if not those popes who have sacrificed

ficed every thing to those pretensions, as least such as not knowing how to extricate themselves out of the defile into which they got entangled, have piously imagined that Christ, who had declared in express terms that *his kingdom was not of this world*, at least should not in the person of his vicar yield to Mahomet, who reigned by his. Besides, if we consider the state of Europe during the periods in question, these pretensions might probably have been its strongest bulwark against the torrent of the Mahometan arms, which after having invaded Asia, Africa, and Spain, threatened to swallow up the rest of the globe.

Be that as it will, as credulity gains upon us and increases in proportion to distance *, of all the states of Europe England was that in which the pretensions of the popes met with the most favourable reception. The way had been but too well paved for them: the enthusiasm of the monk Augustin, of his assistants and their successors, had produced its full effect upon a people disposed to enthusiasm by their natural constitution. Several kings of the Saxon dynasty were seen to quit the throne, and repair to Rome, in order to end their lives in a monastic habit, at the feet of his holiness: in a fit of zeal, still more indiscreet, one of those sovereigns had made his kingdom tributary to the holy see: in fine, John Lackland, after having offered his kingdom in vain to the Miramolin of Africa, was willing to hold it as a fief of the church of Rome.

* *Major e longinquo reverentia.* Respect is greatest to things distant. Thus in mechanics, the power of a lever is proportioned to its length.

Upon these titles the popes reigned over England, even at the times wherein all Italy, provoked with the pontifical superciliousness, left them no place to rest their heads in. During this period, Peter de Blois wrote to Alexander III. in the name of that king of England who most vigorously asserted the rights of his crown: "England acknowledges you as its sovereign lord, the feudal laws have made it depend upon you, it is held only of you *." It is true Henry II. who was represented as speaking in this manner, was then contending with his revolted son Henry.

In those ages of ignorance and barbarism the northern countries of Europe had returned to the state, in which Dion Chrysostom beheld them five centuries before. "The Druids reign there, says that author, in the midst of the lustre and splendor of the throne; the kings are in fact only the executors of the orders, decisions, and inspirations of priests †."

About

* *Vestræ jurisdictionis est regnum Angliæ; et quantum ad feudatorii juris obligationem, vobis duntaxat obnoxius teneor.* Petri Blesensis, Ep. 136. The kingdom of England belongs to your jurisdiction, and with regard to feudal law, I am bound to you only. In virtue of this right, Innocent III. in the next century, gave England to Philip-Augustus, king of France.

† Ὡς ἂν ἐν τοῖς βασιλεῦσιν ἑδὲν ἐξῆν πράττειν ἑδὲ βυλεύεσθαι. ὥς τὸ μὲν ἀληθὲς ἐκεῖνος ἀρχεῖν, τὰς δὲ βασιλέας αὐτῶν ὑπηρετὰς καὶ διακόνους γινέσθαι τῆς γνώμης ἐκ θρόνοιο χρυσοῖς καθημένους, καὶ οἰκίας μεγάλας οἰκύντας, καὶ πολὺ τιμὰς εὐχαμένους. Dion. Chrysost. Orat. 49. They were not allowed to do any thing, or take any resolution without the concurrence

About five centuries after, we find in the same countries the same subordination of the secular authority to the ecclesiastical power. The second council of Maçon, assembled in 585, or having, by the ninth and tenth canons, secured the immunity of church-men, an immunity since extended to their possessions, established in the fifteenth canon the most mortifying distinctions between the clergy and the several orders of the laity: "If, says this canon, a layman meets with an ecclesiastic, let him pay him all the honour due to the rank which he holds amongst Christians. If they are both on horse-back, let the layman, taking off his hat, humbly salute him. If the churchman happens to be a-foot and the layman on horseback, let the latter alight and do him all the offices which the humblest charity prescribes. If any person, adds the canon, presumes to transgress this law, dictated by the Holy Spirit, let him be suspended and continue so, so long as his bishop shall think proper."

In the succeeding centuries the bishops shared those golden thrones and all the external lustre, which, as Dion informs us, the Druids left to princes: the inthroning of these prelates was accompanied with all the pride and pomp of regal

currence of these; so that in fact, it is they that govern, and kings become the ministers and agents of their will, tho' seated upon their golden thrones, living in palaces, and wallowing in affluence and luxury. This passage has escaped the inquiries of Don Bouquet, and of M. Duclos, who in his *Memoirs upon the Druids*, inserted in the *Collection of the Academy of Inscriptions and Belles Lettres*, considers the government of the Gauls only as an aristocracy, exclusive of all royalty.

power.

power. The sovereigns, upon taking possession of the throne, contented themselves with making their appearance on horseback: the bishops of the tenth century added thereto the ceremony of causing themselves to be carried a considerable way, upon the shoulders of the first noblemen of the kingdom, to whom when they granted infeoffments expressly upon that humiliating condition *. A brother of St. Lewis was summoned by a bishop of Paris to pay to him in person that duty, which Philip Augustus had paid him by procuration, as lord of Corbeil and Mont l'Hery, and which Charles the Wise, and his successors, down to Charles IX. exclusively, paid to the bishops Auxerre since that country had been reunited to the crown †. The Bouchards, and the Mathews de Montmorency, who were bound to pay this homage to the bishop of Paris, thought themselves thereby the more honoured, as they held the first rank amongst the barons who shared in their servitude. Hence their title of the first barons of Christendom: a name at that time peculiarly adapted to signify the court, the jurisdiction, the rights, and all the prerogatives of episcopacy ‡. Hence, without doubt, the military cry of the House of Montmorency: May God assist the first Christian baron.

Those of the ancient family of Chevreuse shared that honour, on account of the estate of

* See Gallia Christiana, and the particular histories of most of the dioceses in France.

† See the History of Auxerre, by the Abbe le Boeuf.

‡ See the article of the Church of England, and the Dictionary of Du Cange, at the word Christianity.

Chevreuse, which was likewise a barony depending upon the crozier. They were for the same reason vassals of the abbey of St. Dennis. In a title of 1226, inserted amongst the proofs of the genealogy of Montmorency, they expressly stipulated, that they should be consecrated to the honour of bearing the banner of St. Dennis; and, in the following century, a nobleman belonging to that family, whilst he discharged that honourable office, was killed at the battle of Mons-en-Puelle.

During the same periods the high barons of England had the same emulation to carry the bishops and the banner of the monks. In England and France these vain honours, and humiliating distinctions, extended to the possessions of the clergy, to their prerogatives, and to all their claims. I shall cite, with regard to France, an example related by don Mabillon *, and taken from Stephen of Paris.

Lewis the Younger coming to Paris from some part of Brie was benighted at Creteil, and lay there, after having supped at the expence of the inhabitants, whom the dean and chapter then reckoned amongst their vassals. The canons having early in the morning received information of this encroachment on their prerogatives, were greatly incensed, and said, the church is ruined †, its privileges are destroyed:
either

* Annal. Bened. Tom. vi.

† In the following century, the deputies of the clergy said to St. Lewis, by the mouth of the bishop of Auxerre, Guy de Mello: "Sire, know that you suffer all Christendom to be ruined, and that it is ruined in your hands;" whereupon the good king crossing himself, said: "Tell me, bishop, how
that

either the king shall indemnify us for the expence incurred at Creteil, or service shall no longer be celebrated at our church. In fact, the king having upon the same morning repaired, according to custom, to Notre Dame, found the church doors shut; and upon asking the reason, he was answered thus: Sire, you are yourself the cause of this step. In contempt of the immunities and privileges of our church, you supped yesterday at Creteil, at the expence of the vassals of that place, and we have shut up our church, being resolved to run all risks in order to procure redress for that encroachment. "I have made no encroachment, nor had I any such intention, answered the devout monarch; I happened yesterday to be benighted at Creteil, when I was prevailed upon by the civility of the inhabitants to accept of a supper. I repent of my complaisance: let the bishop come to me with the dean, let the whole chapter join them, and above all the canon who officiates in this village. If I am in the wrong, they shall determine what satisfaction I am to make; if I am innocent, I expect my justification from themselves." The king continued to pray at the church-door, whilst he waited the coming of the bishop and the chapter. Upon their arrival the church-doors flew open, the king entered, and gave as security for an indemnification, should there be a call for it, the person of the bishop himself, and as pledges his two silver

that comes about?" Having thereupon heard what the matter was, he made answer, that he could not do otherwise. Joinville.

candlesticks. In fine, in testimony of this firm resolution to give the satisfaction required of him, he laid a wand upon the altar of the cathedral of Notre Dame, with the promise written upon it. This is said to be the same wand which one of the choristers of Notre Dame holds every Sunday before the eagle, during the ceremony of sprinkling holy water.

What a spectacle then would Dion Chrysostom have beheld throughout Europe, had he returned to life about the eleventh century? A multitude of sovereigns prostrate at the feet of the great Druid*, disputing with each other the honour of holding his stirrup, waiting upon him at table, receiving orders from him, subject to the admonitions and authority of his legates, crossing the seas to fight against those whom he had declared his enemies, governing their territories by his directions and by his orders, surrendering him that capital article of their authority, which ascertains the rights of property, by suffering bulls, renewed in every pontificate, to be the first title of the possessions and rights of the whole body of the clergy; in a word, the most

* This slavery of the princes was unavoidable during the feudal law. It established their authority over vassals jealous of their rights, which they found themselves in a situation to cause to be respected. The first contributions foreign to the feudal rights were levied by the authority of the pope. Now, it was the policy of sovereigns to endeavour by their submission, to raise the credit of an authority which was become the foundation of the most interesting part of theirs. The same policy should have kept this submission within due bounds.

power-

powerful and the most absolute of those sovereigns expiating, by the most solemn and the most humiliating penance, his temerarious attempts against the sacerdotal authority *.

Upon an examination of the internal state of these kingdoms Dion Chrysostom would have seen Druids at the head of each sovereign's councils, he would have seen them superintend the education of young princes, he would have seen them the oracles of supreme justice †, the chiefs of a jurisdiction ‡ which had absorbed all others, proprietors of the greatest part of the inferior tribunals, born the judges and arbitrators of all contests and disputes §; in fine, Druids of a
third

* See the History of Henry II'd's reign.

† The chancellor of the kings of England and France were generally chosen out of the episcopal order. Their privy-council, and their parliament had scarce any magistrate but such as were clergymen. At Paris, several of these magistrates were at the same time curates, either in town or country, at the distance of five or six leagues: the ecclesiastical counsellors at present are representatives of the primitive body of our magistrates.

‡ The ecclesiastical jurisdiction, called by way of distinction, the court of Christendom.

§ Between laymen, and even between the laity and the clergy, or monks. The Gallia Christiana, the Benedictine Annals, the History of the Diocese of Paris, by the Abbé le Bœuf, abound with examples of such arbitrations. I shall mention amongst others that of the compromise of Hervé of Chevreuse accused in 1264, of depredations on the priory of Yvette, and the Abbey of St. Maur. Two canons of Paris, and a canon of Poissy, chosen for arbiters, condemned Hervé in ten marks of silver, and his followers, who had carried off some horses,
and

third order, some of whom were exclusively entrusted with the care of all those acts which bind men to society ; others again with the instruction and education of the rising generations ; some, who by the rules of their order had been enjoined strict silence, busied in transmitting to posterity a historical narrative of events which they saw through the medium of monastic prejudices * ; others again performing the functions of lawyers and attornies, or practising surgery and physic.

These three orders, united by a common interest and actuated by the same principles, formed in each state an intermediate power, which too often spreads alarms and terror round the thrones of Europe ; a power to which every interest but its own was always foreign.

and committed depredations upon the poultry, to make three processions to Yvette, to Chevreuse, and to St. Maur, in a plight as humbling as remarkable for an appearance of buffoonry. The parliament of Paris condemned to the same punishment the lay-officers who encroached on the ecclesiastical jurisdiction. See the History of the Diocese of Paris, Tom. viii. p. 40. of the First Part, and the Proofs of the History of Auxerre, Tom. ii. p. 65.

* All the science of Europe, after having been corrupted and almost extinguished by the ravages of barbarous nations, was almost entirely cloistered up amongst those called the clergy, who being, by their profession, totally alienated from the affairs of this world, have spoken of matters which are the chief subjects of history, not only as clergymen may be supposed to do of arms ; but, which is still worse, as persons born blind may be supposed to do of colours. Pithou, in the Introduction to his Memoirs concerning the Counts of Champagne.

Most

Most historians look upon the haughtiness and inflexibility of Clement VII. as the source of that revolution which destroyed the power of the clergy in England: reflecting on this important event, I have fallen into a train of thoughts, which as they seem to afford some new lights, I shall submit to the consideration of the reader.

After the councils of Basil and Constance, European sovereigns found the court of Rome as tractable as it before had been the reverse. The affair of Henry VIIIth's divorce, presents us with an extraordinary example of a resistance and resolution the more astonishing as they were less to be expected from the character of Clement VII. Cardinal Woolsey conceived the first idea of this divorce, in circumstances when every thing seemed to insure its success. He had just acceded upon his master's account to the alliance between France, the pope, and the Venetians: he looked upon the divorce as a secure battery against the emperor; but he did not foresee the pillaging of Rome, the imprisonment of the pope, his complete reconciliation with Charles V. and the superiority which these extraordinary accidents were likely to give this prince, whose opposition formed the only knot of a difficulty, which it was in vain to attempt to solve by Leviticus, by Deuteronomy, and by the suffrage of scholastic doctors and the opinions of universities. The pope exhausted all the artifices of his countrymen to avoid coming to a decision, and endeavoured to shew Henry VIII. that it was out of his power to determine the matter. He even went so far as to suggest to him to have the affair examined into and decided in England, without his concurrence, expressing his regret that the king had not followed the advice, which, at the
very

very beginning of the affair had been given him by the prelates of his kingdom, an advice which had been opposed by cardinal Wolsey upon pretext of deference for the holy see, but in reality because he then found as much facility as security in recurring to Rome.

The English historians even Mr. Hume himself, have neglected to discuss this point, which is of the greater importance as it determined the disgrace of Wolsey, and as it seems to disculpate the court of Rome of the inflexibility which it is accused of, and which it could not avoid shewing, since it was become entirely dependant on Charles V*.

Ever

* I met with a proof of this fact, in a letter written to the legate Campeggio, in the pope's name, by cardinal Salviata, and inserted in a Collection of Lettere di XIII. Huomini Illustr. fol. 28. N. S. *(Il papa) sà e dagli effetti a conosciuto l'ottima mente del reverendissimo ed illustrissimo Monsignor Eboracense, verso le cose della sede Apostolica; ed hà per certo che con medesimo animo si movesse S. S. reverendissima a fare che il serenissimo Ré domandasse un legato per questa cosa, con tutto che da Prelati del regno li fosse detto che poteva far senza. Ma volesse Iddio che S. S. Reverendissima avesse lasciato corren la cosa, perche se il ré l'avesse determinata senza l'autorità della santità sua, o male o bene che avesse fatto, saria stato senza colpa sua e biasimo suo!* " Our lord, the pope, knows, and from facts has discovered the good intentions of the most reverend and illustrious cardinal of York, with regard to the affairs of the apostolical see; and it is his firm opinion, that the most reverend cardinal should, with the same good intention, endeavour to persuade the most serene king to apply for a legate to transact that affair, though he has been told by the prelates of his kingdom, that he might do without

Ever since this important revolution, the clergy of the church of England have retained part of their ancient authority, which those of the Gallican church had long since lost; but they no longer have preserved that weight, which, thro' the toleration of sovereigns and the force of habit, makes the clergy in other countries support the rank of an intermediate power. They have lost it, as well by their entire independence upon any foreign power, as by the rules which the king's of England have prescribed to themselves, in the choice of persons intended to fill the first dignities in the state.

Before the reformation, the great sees having fallen to the lot of the first nobility, were often filled by the brothers or sons of the sovereign.

out one. But would to God, that the most reverend lord cardinal had let the affairs run on, because, if the king had determined it without the authority of his holiness, whether he had done well or ill, it would have passed without any fault of his, and without his incurring any censure!"

The pope himself spoke in this manner to the agent of Henry VIII. who gives that prince an account of what his holiness said in a Latin dispatch of the 17th of September 1528, inserted in the Proofs of the History of the Divorce, by the Abbé le Grand, p. 116. *Agant*, said the pope to him, *agant per se ipsos quod volunt, legatum remittant, eo prætextu quòd in causam ulterius procedi nolint; et deinceps, ut ipsis videbitur, rem conficiant, modo ne, me auctore, injustè quidquam agatur.* "Let them, said the pope, do whatever they think proper of themselves, let them send back the legate upon pretext that they do not chuse to proceed any farther in the affair; and then let them determine as they think proper, provided they do not do any injustice by my authority."

William

William the Conqueror, king Stephen, Henry III. Henry the IV. had brothers invested with the episcopal dignity, Henry VII. intended his youngest son for the see of Canterbury; there is even mention made of kings, such as Ethelwolfe the son of Egbert, who passed from the episcopal chair to the throne. What an additional importance did persons of such quality and rank give to the ecclesiastical order?

The choice of bishops being afterwards determined not so much by birth as by merit, those prelates, who answer the hopes conceived of them and to which they owe their exalted dignity, support by, their personal abilities, a rank which has of itself engaged every thing capable of conciliating and securing the respect and veneration of the people. Those whom favour alone has raised to the episcopal dignity, being engaged by the care of aggrandizing their families, depend on the court only, both by gratitude and expectation.

When in the former state of things, the number of temporal peers was counterbalanced by that of lords spiritual, the suffrage of the latter had a weight that it has lost by the successive multiplication of lay peerages, which are at present to the former in the ratio of ten to one.

This disproportion has an influence on affairs purely ecclesiastic: it is in parliament, with the assistance of the lay peers and by the authority of the king, the head of the church of England, that regulations concerning the discipline, and even decisions relative to the dogmas of religion, are determined and promulged. This method, so whimsical and so opposite to the modern practice, was notwithstanding that which was followed by the Gallican clergy under Charlemagne
and

and the sovereigns of his race : to be convinced of this it is sufficient to open their capitulars *.

The English character, and their love of freedom of thought, are new obstructions to the re-union of the English clergy in a party opposite to the court, so long as their body is in no danger.

Before the Tudors came to the throne, the whole power of the clergy sprung from their being united, and that union was the effect of the immediate influence of the court of Rome, which by means of a centre of unity gave the mutinous clergy the means of rallying.

Since the reformation, the conforming clergy continued constantly attached to the interests of Charles I. who from a principle of conscience defended their prerogatives and rights, as inseparable from those of his crown. The same interest kept them afterwards closely connected with king William, in opposition to James II. who had conspired their ruin : in all similar conjunctures they will certainly side with the prevailing party †. This union will be cemented by the fear with which they are inspired by the vicinity

* The basis of this form was the rule observed by the primitive church : *Quod omnes tangit, in commune debet consuli.* "What affects every body should be the subject of a general consultation." It was likewise established in Spain under the Visigoth kings.

† Mr. Hume in the 11th of his Political Essays, lays it down as a maxim, that in all ages, priests were enemies to liberty : a conduct founded, says he, upon reasons which have equal force in all times, and in all countries ; that is to say, upon interest and ambition ; from whence he infers, that in England the clergy of the established church will always adhere to the court party.

of

of the non-conforming sects, separated from them by a wall, which would be scarce able to resist the efforts of a sovereign determined upon throwing it down. An enterprize of this sort, properly prepared, and supported with vigour, would meet only with political obstacles from the parliament, and in the superior clergy only a weak resistance; so long as the members of that body are not chosen out of the nobility, who would be thereby interested in its preservation.

I confine myself to these observations to prove how much the present clergy of the church of England differ from the ancient English clergy, how peaceable they are, and how far they have ceased to be an intermediate power in the state.

Stript of this power, and at the same time deprived of that which France at present owes to its magistracy, the British constitution finds an equilibrium in the parliament and the royal prerogative, an equilibrium which strengthens and secures it alike against slavery and anarchy.

This equilibrium derives its whole force from its indivisibility, which has been broke only on two occasions: during the usurpation of Cromwell; and at the convention which placed the crown of James II. upon the head of his son-in-law: but its separated parts made an effort to close and unite again: and their reunion was as prompt as it was solid.

The union of these two powers is secured, and, as it were, cemented by the very efforts which, to all outward appearance, tend continually to disunite them: they derive from the very constitution of the state several means of mutually

awing and checking each other *, independent of a thousand little springs, which private interest puts in motion, according to the circumstances of affairs. If we would see them perfectly agreed, we should consider them in the periods remarkable for wars against France. Yet the fruit of these wars, as destructive as the gold of Toulouse, was in all ages to England the source of the most fatal revolutions; those, for example, which followed the triumphs of Edward III. and Henry V.

THE KING.

Places in the church, in the law, in the sea and land service; in a word, all the distinctions, all the favours, all the employments, whether honourable or lucrative, being in the king's gift, the people of England find themselves bound to the throne by ties the most capable of connecting and fixing men; I mean those of avarice, ambition, hope, and that multiplicity of passions which are founded on personal interest.

But these tumultuous passions require the utmost dexterity in the hand which undertakes to direct them: a dexterity that unites, with regard to England, all those parts, from the combination of which, politicians, antient and modern, have framed the great art of reigning, *regnandi artes*. The advice which Phœbus gave his son before he put the reins of his chariot into his

* See Spirit of Laws, and Mr. Hume's Hist. of England.

hand, seems to be addressed to a prince, who ascends the throne of England *.

If it be a difficult matter for a king, desirous of reigning by himself, to carry this advice into execution; with what difficulties must it be attended with respect to ministers, whose precarious authority, borne with impatience by a thousand rivals, odious to all those whom it is unable to oblige, blamed for every unlucky accident, obliged even to justify the most prosperous events, struggling with all the irritated passions, is constantly exposed to the most rude contradictions, to the most obstinate opposition, to the most severe canvassing, and the most bitter satire!

Such was the state of those ministers whom, after the introduction of democracy into the English constitution, the sovereigns of that country have honoured with their confidence; a confidence which has cost some of them their lives.

Gratitude was never the virtue of democracies: how many examples of ingratitude occur in the Greek and Roman histories! Modern history represents to us commonwealths constantly animated by the same spirit. The murder of Barneveldt, and that of the two de Witts, are upon a par with the most atrocious attempts which a mob, involved in the darkness of Paganism, has ever dared against its chiefs and benefactors.

* *Parce, puer, stimulis; sed fortius utere loris:
Sponte sua properant: labor est inhibere volentes.——
Nec preme, nec summum molire per æthera currum.
Altius egressus, cælestia tecta cremabis;
Inferius, terras: medio tutissimus ibis——
Inter utrumque tene. Fortunæ cætera mando. Metam. lib. 2.*

In England, as well as in all governments democratical, or almost democratical, ministers of state are undaunted pilots, who in both hemispheres incessantly bid defiance to rocks, tempests, and shipwrecks. If we compare them to those, who in other countries have the administration of government, the command of armies, the conduct of negotiations, or the direction of the finances, we shall consider the latter only as mariners, who, sailing with the current of a peaceable river, never lose sight of its banks.

But no administration was overcast with such constant storms as that of the earl of Bute, who sat at the helm of affairs at the beginning of the present reign, being raised to that exalted dignity by the princess dowager of Wales, mother to the king: an administration which in many respects may admit of a parallel with that of cardinal Mazarin.

The greatest, the most unexpected, and the most flattering successes on the part of England, had brought France to wish for peace, and accept it upon conditions as honourable as advantageous to the English nation *. The enemies of lord Bute laid hold of that very peace to attack his administration, just as those of cardinal Mazarin availed themselves of the continuance of the war with Spain. Mazarin weathered out the storm, alternately combating it with Italian suppleness, and a resolution unknown to his country: he died despotic master of the state.

* In the ancient wars with France, said an English prelate, preaching before the parliament, after the peace of 1713, the nation exhausted its men and money, to purchase vain-glorious trophies; and its impoverishment was generally followed by a civil-war.

Lord

Lord Bute opposed the storm with all the coolness natural to the English, and, after having concluded the peace and carried it into execution, quitted his post when the danger seemed to be totally vanished: he then contented himself with governing in the name of George Grenville, brother to lord Temple, and brother-in-law to Mr. Pitt, both the declared chiefs of the party in opposition to the court.

I have been told that lord Bute is grandson to the famous Sir George Mackenzie, who being sprung from one of the most illustrious families of Scotland, acquired a distinguished reputation in the universities of Scotland and England by his learning, was an honour to the bar of Edinburgh by his abilities, was admitted a member of the privy-council by king James II. and enriched the republic of letters with several works on morality, law, and polite literature, replete with ingenious discoveries. Amongst the first it will be sufficient to name one, entitled *Moral Bravery*, wherein the author maintains that, abstracted from all other motives, the point of honour alone obliges men to be virtuous. The purest ideas concerning the eloquence of the bar are displayed in a work which he published in 1684, entitled *Idea Eloquentiæ Forensis*: a work which has not yet had any effect in England. Honoured by king Charles II. with the title of viscount Tarbot, queen Anne added to it that of earl of Cromerty.

The earl of Bute has inherited by his marriage with the heiress of Wortley Montague the whole wealth of that family, one of the richest in England. That heiress is daughter to the celebrated lady Wortley Montague, who first introduced into Europe the custom of inoculating for

the small-pox, and whose Letters concerning the Turkish Nation were lately translated into French. That lady left behind her a son, of whom I have already made mention, vol. i. but who, being disinherited by his father, lives the life of a philosopher upon a pension of 1500 l. a year.

The king of England has all the sea and land forces at his disposal; but that article of his prerogative is no way dangerous to public liberty: it was but of little avail to Charles I. and James II.

The historian of the Parliament of England maintains that "English liberty can never be in any danger, except under a king, who shall force the English people to love and esteem him." Men rarely love those who force their esteem, neither do they always esteem those whom they love. The wisest prince that ever reigned in England, of which he is called the Solomon, I mean Henry VII. was esteemed, but hated by his subjects, notwithstanding all the right he had to their love, as lord Bacon tells us in express terms in the life of that prince.

Queen Elizabeth, whose memory is at present as dear to England as that of Henry IV. is to France, was incessantly exposed to plots and conspiracies. Several weaknesses were laid to her charge: she was reproached with having false political views: but history has justified her conduct, and given her those encomiums which she richly deserves*. Charles II. was

* No historian has acquitted himself better in this respect than the celebrated Grotius, in the beginning of the 5th book of his *Annales de Rebus Belgicis*.

greatly beloved and but little esteemed *. King William, on the other hand, whose reign was a continued concatenation of wars, though honoured with the highest esteem by the English, was one of their princes least beloved. All Europe knows the afflictions which embittered the last days of a sovereign †, who united in the highest degree, all those qualities that are capable of forcing the English to love and to respect the hand which governs them. In all countries, at all times, and in all conditions, the eye of cotemporary envy, incessantly open to the weaknesses and miseries, by which persons of the most shining merit pay tribute to humanity, seeks occasion from thence to hate them, if it cannot proceed so far as to despise them. All the illustrious personages of antiquity underwent this law ‡: what, exclaimed the sage Horace, shall merit and virtue always meet with an undistinguishing and criminal

* England had, however, never been in so flourishing a state as in the pacific reign of that prince. Since the peace of Breda, it had sustained only an eighteen months war; and that war, against Holland alone, was carried on with French money. The peace which concluded it, whilst it secured to England a neutrality in the midst of a long and bloody war, rendered her mistress of the trade of all Europe till the peace of Nimeguen. The ten succeeding years were neither less happy, nor less brilliant. London, laid waste both by pestilence and by fire, found itself at the close of those ten years, as rich, as populous, and as extensive again as it had been in 1660. Are vain triumphs, and bloody trophies, of equal value with this felicity?

† Queen Anne.

‡ *Ploravere suis non respondere favorem
Speratum meritis.*

hatred amongst us? shall they not be felt and acknowledged till after we have lost them*? This unjust prejudice, as I have already observed, prevails in all countries. In a remote province of Siberia, Mr. Gmelin came to a village lately built and formed by a Tartar who received him at his house. Happening to ask his guest why the village did not, according to custom go by the name of its founder: the inhabitants, answered the Tartar, are too vain-glorious to do me that honour in my life-time†. In the present state of things, whatever be the merit, however courteous the behaviour of a king of England, he will find his people actuated by the sentiments which God observed in the Jewish nation. "This people draweth near to me with their lips, but their hearts are far from me."

I have already given several hints, which discover these sentiments very plainly, as well with respect to the present king as to his predecessor.

If, notwithstanding, any king ever deserved the love of his people, it is George III. he leads, at his rural seat near Richmond (a seat much inferior in magnificence and lustre to that of many noblemen) a life of the most regular simplicity; which he divides entirely between the queen and his books. It is true he comes every week to hold a levee and a drawing room at St. James's; but the court is by no means brilliant; he comes with the queen in a very plain equipage, escorted by a few light horse. I have already observed that coachmen and carmen, never stop at his approach, and that they take a pride in not bowing

* ——— *Quatenus, heu nefas!*
Virtutem incolumem odimus,
Sublatam ex oculis quærimus invidi?

† Mr. Gmelin's Voyage to Siberia, in 1748.

to

to him: "Why should we bow to George? say the insolent rabble: he should bow to us: he lives at our expence *."

At his court he is affability itself. All those he speaks to, he accosts in the most polite manner, and never opens his lips except to say the the most obliging things. His palace, which has no guard except at the gate, is open to every Englishman as well as to every foreigner who is attracted thither by curiosity.

The same simplicity accompanies the king when he repairs to parliament, to shew himself in all the lustre of majesty: his hair, which is very thick, and of the finest light colour †, tied behind with a ribband, and dressed by the hand of the queen, is one of his most striking ornaments: he eats in public only when it is unavoidable, and on these occasions he is served upon the knee, according to the custom of the house of Austria, adopted by Henry VIII. This practice would have prevailed in France about the

* I have cited in the course of this work many similar instances of insolence in the populace of London, to their sovereigns. Thus the first virtue of a king of England, is that which antiquity most admired in a prince who had extended his sway over part of the free inhabitants of Greece: *Si quæ alia in Philippo virtus, fuit et contumeliarum patientia, ingens instrumentum ad tutelam regni.* Senec. de Irâ, lib. iii. c. 23. If Philip was ever possessed of any virtue, it was that of bearing affronts patiently, which contributes greatly to the defence of a kingdom.

† Notwithstanding this, the peruke-makers have presented an address to the king, requesting his majesty that, for the good of their body and the nation, he would be pleased to wear a wig.

same period; but Lewis XII. and Francis I. that is to say, *goodness and affability themselves*, then sat upon the throne: in the opinion of two princes of that character, the greatness of a king of France does not depend upon a vain ceremony.

England owes the affability of its present sovereign to his easy free education, and to the little ceremony observed by the prince of Wales his father. It has had the same effect with regard to the princes his brothers. I have already related some facts which prove this assertion.

This education has established in the king's family a reformation which puts it almost upon a level with the houses of private citizens. Nothing but wood was burned in the late king's kitchen; in his own apartment nothing but cedar: the several different officers, who attended about his person, eat at court. At present sea coals are burned both in the kitchen and the king's apartment: there is no other table at court but that of the king, who eats with the queen; and those of the maids of honour, and the chaplains: the officers in waiting are at board wages. The same spirit of œconomy regulates all the personal expences of that prince, who for the annual support of his household, and the whole royal family, to defray the charges of embassies, &c. receives but about 800,000*l.* from funds appropriated to that purpose at the Revolution, and now granted by parliament, whose meetings on that very account, are necessary to the royal subsistence.

From the reign of Edward I. to that of Charles I. the kings of England supported their table at the expence of the people, that is to say, their purveyors took without payment from the villages within five or six leagues of the royal residence

dence, what provisions they thought proper, and disposed of them at their pleasure. The kings of France lived upon the same footing till the reign of Charles VII. The Collection of Ordinances contains several letters of Charles V. relative to this right, known by the name of *Prises* *: by some of them he exempts several villages and borough-towns from this oppression; by others he reduces it to fixed quantities to be delivered in kind. One of these letters, of the year 1371, excuses the inhabitants of Aubervilliers from this supply of provisions, on condition of furnishing every year seventy cart-loads of straw: viz. forty for the king's use, twenty for the queen, and ten for the king's servants. By other letters of 1367 he had released the city of Paris "from the *prises* or *seizures* which were made daily of horses, corn, wine, hay, oats, forage, ploughshares, cushions, bed cloaths, quilts, coverings for the head, cattle, fowl, tables, and other things which were taken for supplying our household, the household of our queen and brothers, of our constable, and of our whole family, &c." We find that these *prises* for the table and the furniture of the sovereign and his court were the cause of the itinerant life, which in those periods was led by the kings of France and England †.

James

* This vexatious right was called by the people, and afterwards by the kings themselves in their letters, *Mala-Tolta*; from whence the French word *maltôte*, tax, is derived.

† *Lorsque ces rois sortoient de leurs palais,
Le deuil enveloppoit la terre :
Sur leur passage ils repandoient l'effroi,
Le peuple s'écrioit : cachons nous, c'est le roi.*

When

James I. had put his household, and those of the queen and princes his children, upon the footing of Asiatic magnificence and luxury, a taste suited to the pedantic vanity of that prince: he had multiplied the posts belonging to those households, and allotted to each a considerable number of officers. Charles I. diminished the number *. Charles II. made a farther reduction at the Restoration, and yet their number was still upon a level with that of the officers of the court of France. The succeeding kings have carried this reduction so far, that the court of England has at present only an air of grandeur without either pomp or profusion.

All employments, all honours being, as I have already observed, at the disposal of the king of Great Britain, those who aspire to them form a retinue about his person, which would be more numerous, if the ministers did not take off part of them; if the English in general did not think industry a surer method of making a fortune than assiduous attendance upon the prince; if opposition to the court and open variance with it were not in England the easiest road to arrive at the most important and distinguished places; if, in a word, the English, by nature little disposed to dance attendance did not consider the life led at courts, the officiousness, the perseverance, the submission and all the compliances requisite to please a sovereign, as the cringing of a beggar,

When these kings quitted their palaces, the face of the earth was wrapt in sorrow: they spread terror as they passed along, and the people cried out: Let us hide ourselves, 'tis the king.

* Till the civil war, the court of Charles I. had eighty-six tables served twice a-day.

unworthy

unworthy of any man in easy circumstances: This comparison, however, is somewhat extravagant, and might be easily reduced within proper bounds, by drawing a parallel between the love of court pageantry, and the passion of gaming, both of which are founded on the desire of gain and the impossibility of being a great loser; or on a covetous disposition which is never to be satisfied.

From what I have said of the life of the English devoted to the study of the sciences and literature, it follows that they have the least of the courtier of any people breathing: "they are not ignorant that a silent assiduity leads to fortune; but they do not chuse to purchase fortune so dear: a price too high for whoever knows that he has a better way of employing his time *." In a word, the learned in England observe the same rules of conduct at court, which the president Jeannin prescribed to the French literati.

Instead of repeating all the common-place remarks which have been made upon the English government, and upon the † shackles which re-

* Fontenelle, Elogium of M. de la Hire.

† The power of assembling the parliament was, till the last revolution, the most important branch of the royal prerogative. The king's authority was the same which the Italians ascribe to the pope: in its present state, it is the same which the Gallican church allows the bishop of Rome. I shall not enlarge upon this similarity; it is sufficient to point it out. It ceases only with regard to royal proclamations compared to papal constitutions. The former are to this day capable of executing themselves, even when the parliament is sitting. The Gallican principles admit the papal constitutions only upon condition of going through a previous examination.

strain

strain the exercise of the royal authority, I shall relate some facts of which I have been myself a witness; facts which throw more light upon these subjects than political speculations and moral reflexions.

After a slight indisposition, which had been represented as much more considerable than it really was *, the king went to parliament on the 24th of April, and in a speech wherein he discovered great affection both to his family and the nation, he desired to be authorised to chuse guardians for his son, in case God should call that young prince to the throne before he was of age, which by the laws of England is fixed at eighteen.

The country party on the contrary, considered this application only as an artifice of the earl of Bute, to perpetuate his authority by continuing that of the princess dowager of Wales in a case which the king's youth seemed to leave no room to apprehend. The party thereupon took measures to turn this artifice against its author, by making use of it to subvert that authority, which it seemed intended to confirm and perpetuate.

The king having retired, the house of lords voted an address of thanks. From thence I followed the crowd to the house of commons, which was immediately filled, insomuch that lord Halifax and lord Sandwich, the secretaries of state, arriving there, accompanied by most of the fo-

* The reports spread upon the ill state of that prince's health had even reached France: it was added, that his majesty would immediately cross the seas in order to drink the Barege waters. I saw him at the parliament-house, and at St. James's-palace: he appeared to me to be in perfect health.

reign

reign ministers, were for want of seats obliged to stand. The speaker having communicated to the house the king's speech, and the object which he had in view, Mr. Beckford, and other leaders of the country party, inveighed with the true spirit of English liberty, against the views of the court. "There is not one amongst us, said they, that does not wish that the king's life should be protracted at the expence of his own. What cruelty, what barbarity is it to disturb with the thoughts of death a prince who, according to the ordinary course of nature, both ought to survive us, and will survive us! if contrary to this course and to our wishes it should happen otherwise, we will exclaim with the prophet Daniel, May the king live for ever! Our laws have sufficiently provided against these dreadful exigencies." These speeches were interspersed with sneers and sarcasms against the ministers, who heard them delivered; I could perceive that those noblemen were somewhat out of countenance at the laughs, which these orators raised against them throughout the assembly. The house of commons then voted, as the house of lords had done before, an address of thanks which was to contain only unmeaning compliments without any promises or resolutions relative to the subject of the king's speech.

Four days after, lord Hallifax laid before the house of lords a plan of administration, in case of a minority, and a message from the king relative to that plan. In both his majesty reserved to himself the right of chusing a regent whom he did not name. This silence caused the affair to be referred to another examination; which was made the next day, and again referred to a committee, by whose advice it was resolved, that
the

king should be requested to name the person whom he intended to appoint regent.

This very inquiry, at the same time, was carried on in the house of commons, but not with equal warmth: Mr. Pitt's coming to the house was every day talked of; he was to do something surprising, that would subvert the whole ministerial structure: but Mr. Pitt never came.

Lord Halifax had notwithstanding undertaken to get the regency bill passed in the same form as he had presented it; and that promise had engaged the king in a step, which, considering the turn this affair was likely to take, could only tend to call his authority in question.

His majesty signified as much to his two ministers whom he in consequence dismissed his service. The ministers being dismissed, the king named none to succeed them. During this species of anarchy the duke of Cumberland quitted his country retirement and came to court. He represented to the king his critical situation, offered him all the services that his ill state of health admitted of, extolled the great abilities and honest intentions of Mr. Pitt, and, in fine, promised to persuade that worthy patriot to enter again into the administration, if it were agreeable to his majesty.

The king having given his consent, the duke set out directly for the seat where Mr. Pitt had fixed his residence since his retirement from public business. He found him in bed very ill of the gout. All the remonstrances, intreaties, and supplications of the duke were ineffectual. Mr. Pitt remained inexorable, upon pretext of his ill state of health, and instead of answering the prince asked his lady for ptisanne, whilst she attended him as a nurse.

The

The disgust which the king had shewn to his two ministers appeared to be the better grounded, as the business, which they said had miscarried, after having answered for its success, revived of itself; and by means known only to the court, was a few days after concluded in both houses, with the express nomination of *the princess dowager of Wales*.

Mr. Pitt still persisting to decline the administration, and the earl of Bute not chusing to concern himself in it, any farther than he appeared to be called upon by the nation, the court found itself reduced to request the lords Hallifax and Sandwich to undertake it in the interim, till their successors could be appointed: they accepted the offer, on condition that the duke of Northumberland should be deprived of the place of lord lieutenant of Ireland, lord Bute's brother of the privy seal of Scotland, and lord Holland and another nobleman of two of the first employments in the state. These changes being concerted with lord Bute, as was said, were immediately carried into execution, and the vacant places filled by the persons chosen by the two ministers.

The precarious situation of the court was rendered still more so by an insurrection of the silk-weavers: an insurrection which broke out at the very moment, that all circumstances seemed to concur to raise lord Bute again to the helm of government.

Happening to walk upon the 14th of May in St. James's-Park about noon, I, with astonishment, beheld the Green-Park covered with a multitude of persons of both sexes. Having mixed with the croud, I perceived the multitude walking to and fro with an air of tranquillity, and without the least emotion. Upon which I asked, what

what was the cause of that croud? A French refugee, quitting his companions, came up to me and said: "You Frenchmen are the cause of it. Your peace, which is considered by the English as the work of lord Bute, has ruined this country by putting an end to a war which was the source of equal emolument and glory to us; and it encourages the hostilities which you incessantly commit, by filling England with your manufactures at a lower price than ours, because you are all starving: we propose complaining of this to the king and the parliament."

This apostrophe, which I little expected, having gathered a croud about me, I requested the man to tell me whether he knew at London, or in any seaport town of England, French merchants who kept a magazine of the commodities of their country. Upon his answering in the negative, I asked him how and by what means our merchandise reached England? It is by contraband trade, answered he, and by secret intelligence carried on between your French and our English merchants. Well then, replied I, complain of your English merchants, and impute to them alone the ruin of your manufactures. If, added I, Englishmen were to destroy the citizens of London with poisons purchased in Italy, who should be blamed, the English or the Italians?

My answer was received with applause, and the ill-will of the people to the French was turned against those English merchants, who kept warehouses of French commodities in London.

Upon my return to my lodgings, I saw a France refugee, with whom my servant had made acquaintance, and who talked to him with tears in

in his eyes, of the necessity which he had been laid under by his comrades, to join in the riot upon pain of being thrown into the Thames: the unfortunate man expressed this regret not so much upon his own account, as that of a wife and a considerable charge of children. I was informed by this person, that the riot was made by persons for the most part determined by the same motive.

The day following, which was the 15th of May, the croud gathered again in the road that leads from London to Richmond; and a great black standard was carried before them, with which they accompanied the king to the parliament-house, where he was going to settle the affair of the regency. His majesty listened very graciously to their complaints, mixed with threats, against certain members of the house of lords.

The unexpected facility which the court had found in the two houses, in passing the regency bill, discovered, perhaps, too plainly, that it governed the parliament: this was, perhaps, the cause of the riot. All had been lost, said an Englishman to me, if the angel of the Lord had not come down to trouble the waters of the pool.

The 16th of May a still greater number of artificers surrounded the parliament-house at Westminster. The lord mayor coming in his state coach to make a speech to the people, the windows of it were broken, and it was filled with dirt like a dung-cart. That of the duke of Bedford was at the same time insulted, covered with dirt, and its traces cut. The house of lords, dreading farther outrages, sent for the justices of the peace. Upon being reprimanded
for

for their neglect, they made answer that they did not know of any law which forbid the people to assemble, in order to demand a redress of grievances of the chief council of the nation. Notwithstanding this remonstrance they were commanded to employ all their authority to restore the public tranquillity, upon pain of being responsible for any disorders that might happen.

In spite of this precaution above 20,000 artificers, divided into companies, with black standards and drums beating, made their appearance again at Westminster, on the 17th, where they spread a report that the tradesmen of the neighbouring towns were upon their march to join them. Certain members of the house of lords were deputed to assure them, that the parliament would take their complaints into its serious consideration. Upon these assurances they retired in small parties, some of whom went into the city, where they plundered the houses and magazines of two merchants, whose commodities consisted chiefly of French silks. The whole multitude then assembled in Bloomsbury-square and all the adjacent parts, but proceeded no farther than insulting Bedford-house, by breaking the lamps and the ornaments of sculpture which crowned the front pillars.

On the 18th there was no disturbance, doubtless, because the parliament did not meet that day.

The next day the crowd, more numerous than usual, advancing with poles and cudgels against Bedford-house, the cannon in St. James's-park gave the regiments of guards, and a detachment of dragoons, the signal agreed on to march to the duke's assistance. They made their appearance,

ance, and drew up in the midst of the crowd, who did not quit their ground, but, in their sight, took every preparatory step to break into the duke of Bedford's house. The house and garden belonging to it, are contiguous on the left side to a street, from which it appears to be separated only by wooden rails. The people considered the rails as the only inclosure of the house on that side, but it had a wall before it, and the ground surrounded by those rails, served to shut up cattle in for the duke's private use.

Though the people had perceived their mistake upon opening the first breach in the inclosure, they continued to demolish it: the whole was so completely pulled up and carried off, that the next day there did not remain the least vestige of the rails, and the place where they stood was scarce distinguishable.

All this was done in the presence of the foot-guards and dragoons, who being drawn up in battle-array, and continuing motionless, upon the same spot, appeared to be come thither only as simple spectators: a tranquillity the more surprising as the horse of one of the dragoons having made a spring, and hurried him out of his rank, the man was that instant pulled off his horse, and received so many blows with cudgels that he died soon after.

The people, after having calmly insulted government in this manner, retired as peaceably as they came, leaving the army possessed of the ground, round which the mutineers still continued to gather in small bodies.

Notwithstanding the injunction laid by the lords upon the justices of peace, to exert their authority against the mutinous assemblies, as those magistrates did not chuse to stir in the affair,

affair, London was in a state of anarchy, to which there was no remedy except in the supreme authority of the executive power : in cases of this nature, the Roman senate recommended the commonwealth to the vigilant care of the consuls* : on the 20th of May, the house of lords voted an address, in which they petitioned the king to exert the authority vested in him by the laws, in order to quell the sedition.

That very day the king was to come to the house, in order to prorogue the parliament : he not only did not appear there, but ceased to repair to St. James's to hold his court. His majesty, however, in order to employ the remedy recommended by the peers, published a proclamation, enjoining all the justices of peace of London and Westminster, and of the counties of Middlesex and Surry, to exert themselves in their several departments to prevent all unlawful and riotous assemblies.

This proclamation, the most solemn act of sovereign authority, was pasted next day up and down the streets. The people who assembled in crowds to read it, looked upon it as a trophy of their victory over the earl of Bute.

They thought themselves sure of this victory by the frequent councils held by the king and princes of the blood, in which it was proposed to recal lord Temple and Mr. Pitt to the ministry ; by the steps taken by the duke of Cumberland to bring this about ; and in fine, by the retreat of lord Bute, who, after publicly taking

* *Videant consules ne quid respublica detrimenti capiat.*

“ Let the consuls take care that the commonwealth comes to no harm.

his

his leave of the court, had set out for the northern counties, from whence, it was said, he was to proceed to Scotland.

These glimmerings of a change in the ministry had more efficacy than the king's proclamation, in appeasing the seditious, or rather in putting a stop to the machinations of those who set them on. The sedition being completely quelled, the king came on the 25th to the house, where he made a speech previous to proroguing it; in which he never once, either directly or indirectly, took any notice of all the seditious proceedings of the populace: from thence it was concluded, that the sedition had been seen in the same light by the court, as by the people themselves.

The news-papers, which are the usual trumpets of sedition, had acquitted themselves admirably during this disturbance. Their invectives against the ministers, against the duke of Bedford, and against the earl of Bute, called the people to the enjoyment of their liberty, and to the defence of the most precious rights of the nation, which were encroached upon and violated by the ministry.

The tumult being entirely appeased, the king came on the 4th of June to receive the compliments paid him upon the anniversary of his birth-day at St. James's, all the passages leading to which were filled with the same populace, which, a few days before had shewn themselves so formidable. They assembled that day with no other view, but to observe, whether the nobility and gentry wore English manufactures; and perceiving that not one courtier appeared in foreign dress, they retired with the utmost satisfaction.

Lord

Lord Bute had, notwithstanding, again made his appearance at that ceremony, and his return, quite unexpected, was scarce perceived, being concealed by the measures concerted with the leaders of the country-party. The disturbances stopt here; the enemies of that nobleman contented themselves with inveighing against him in the public papers, and by written libels, one of which, virulent to the last degree, was pasted to the pedestal of the statue of king James II. at Whitehall.

I have given the most exact and circumstantial account of all these disturbances, guided in my inquiries by the lights I had acquired concerning the springs which put them in motion: the facility with which this comedy was begun, supported and terminated, is capable of giving a considerable insight into the character and genius of the chiefs, and the bulk of the English nation: there are few countries in which such disturbances would not have been attended with the most serious consequences.

The remainder of the month of June passed in negociations and in conferences between the king, lord Temple, and Mr. Pitt, relative to the conditions required by the latter to engage them to resume the administration. Their first care was to promote their friends. In consequence of this during the first fifteen days of July the most distinguished of their adherents were successively called to the chief employments in the state. Above a hundred persons were said to be deprived of their places, and in their room were substituted such as had signalized themselves most in the opposition.

None remained to be placed but the two leaders of the party: their situation was the more extraordinary

extraordinary as, all offices being then filled, they seemed to have forgot themselves, and to think of nothing but the interest of their friends and the good of the state.

That was the judgment past upon them by the populace, who testified by public rejoicings how much they were affected by so rare an example of patriotic heroism: the citizens of London congratulated the king upon it, in the compliment which they paid him upon the birth of his third son.

Mr. Pitt, notwithstanding, continued to reside at Hays, where he received frequent dispatches from the court, which invited him, in the most earnest manner, to come and take part in deliberations upon subjects of the highest importance to be laid before the parliament, the meeting of which had been fixed to the 17th of August, but was afterwards prorogued to the 24th of October, and again to the 12th of December. During that interval advice was brought by all the ships from the English colonies, that the stamp-act, to which the government wanted to subject them, and which had been past in the last parliament, had excited a general insurrection, and that the inhabitants had, on all sides, proceeded to excesses, which, whilst they endangered public tranquillity, rendered the most valuable rights of the crown precarious.

The readiness with which the country party had consented to this new impost, gave grounds for a supposition, that they had foreseen the perplexity in which it would involve the ministry, against whom it would furnish new arms.

The paper in question, so much decried, was extremely fine. The stamp-office was kept at an apartment in Lincoln's-inn, which I frequently

visited; ships were loaded with it, to distribute it to all the colonies.

The parliament having at last met in the month of December, took into consideration this important affair, and, for the present, all commerce was suspended between England and its colonies; with regard to futurity it seemed to threaten a civil war, which might render the colonies independent, by making them quit their connection with the metropolis.

Mr. Pitt, who was still only a member of the house of commons, repaired to that assembly, where he, notwithstanding his ill state of health, attended several meetings: that of the 21st of December lasted till two o'clock in the morning. At length, in pursuance of his advice, the pure and simple revocation of the stamp-act was consented to by the house. This consent, which Mr. Pitt's eloquence seemed to have forced from the members, was celebrated in London by festivals, rejoicings, and ringing of bells throughout the whole city: it was soon followed by the consent of the house of lords; in a word, the king quickly repaired to parliament to give it the sanction of his authority.

By the advice and at the instance of Mr. Pitt, the bill which, under the late ministry, had established duties upon cyder and perry, exceeding burthensome to the counties where those liquors are manufactured, was likewise revoked and annulled.

These blows being struck, Mr. Pitt returned to his country seat, amidst a general applause, the more so as, in conferring services upon every class in the nation, he seemed to forget only himself.

They made haste to finish his statue, which I
had

had seen at Mr. Wilton's * ; and it was exposed to public view with the following inscription : To the right honourable William Pitt †. Silver medals were struck with his head on one side, and has this inscription on the reverse : To the man, who, after saving the metropolis, by his eloquence preserved our colonies. At the first news of the repeal of the stamp-act, subscriptions were set on foot in all parts of English America, to extend the monuments of Mr. Pitt's glory to the New World.

By a decree of chancery, he had just obtained, with the acclamations of the public, a very considerable legacy, which was contested with him by the heirs of a country gentleman, who, though he knew him only by reputation, had left him heir to his whole fortune. After having been distinguished by the public applause, at the rejoicings which followed the king's coronation, he was rewarded with a pension of 3000l a year, upon his retiring from the administration. The populace were for giving his name to the new bridge at Black-Friars ; a monument which must transmit the flourishing state of England at this period to the latest posterity. In a word, shopkeepers could think of no better expedient to

* This statue, which I have already spoken of, cost the city of Cork five thousand pounds.

† The first of these monuments, in honour of Mr. Pitt, is the too well-known medal, which contains all the conquests gained by England over France, in the course of the year 1759. The scutcheon, which forms the centre of these conquests, represents a flower-de luce inverted, and for supporters, the lion and the unicorn. Under the lion we read the name, W. Pitt.

allure customers than that of hanging out Pitt's head as a sign.

He was then the god of the nation, which recollected with transport the successes that had rendered his ministry illustrious, together with the generous and noble manner in which he had obtained, supported, and at length resigned, his high employment, constantly and avowedly opposing whatever he thought either foreign to, or inconsistent with the true interests of the nation.

Two lucky accidents, which greatly contributed to the success of his administration, were reckoned as nothing. The execution of admiral Byng had animated the operations of the war with vigour, activity, and harmony, the want of which had had an influence on every public measure since the renewal of hostilities *. The admiral was secretly prosecuted by the preceding ministry, on whom he justly laid the blame of the ill success of his expedition. Mr. Pitt, whilst he resolved upon his condemnation, seemed to act only for Mr. Fox his declared enemy; but, under the appearance of this noble and ge-

* In the course of the same war, the commanding officer of the auxiliary forces, of the English in Germany, did not strictly obey the orders of prince Ferdinand in a battle which was crowned with victory. Upon his return to England, he was tried by a court martial, which declared him incapable of serving the king. This gentleman was sprung from one of the noblest families in Great Britain, was a member of the house of commons, and of the privy-council: in the presence of that assembly the king, with his own hand, struck the name of that gentleman out of the list of privy-counsellors.

nerous

nerous proceeding, he promoted his own cause, securing subordination and obedience to the ministers. The other lucky accident was the equally unexpected disgrace of M. d'Argenson, and M. de Machaut, who, with equal abilities, filled in France, one, the place of minister at war, the other, the department for maritime affairs.

Having at last attained to that glory, which was often vainly aspired to by the antient heroes of patriotism, which none of them enjoyed in its purity, and which was generally embittered by the ingratitude of their countrymen, on the 3d of August, 1766, Mr. Pitt was declared lord-keeper of the privy-seal †, and raised to the dignity of a peer of Great Britain, with the title of lord Chatham. This unexpected promotion was a thunder-clap, both to the friends and enemies of the new minister. Lord Temple, his brother-in-law, inseparable associate in his schemes against the former administration, and ever true to his genius which seemed to have formed him to command the country-party in opposition to all ministers, was the first that broke out into exclamations and invectives.

This noble lord acts the same part at London, which was so long performed at Rome by cardinal Passionei; that is to say, the part which will in all countries be acted by every man of honour and integrity, who, with the frankness becoming his character, expects to find the same disposition in the rest of his party; with respect to whom

† This place, which has no fixed and regular department, has an influence upon every branch of the administration: the keeper of the privy-seal is at the head of all councils.

notwithstanding, he will ever be no more than a bear amongst a parcel of mummers at a country-fair.

The truth is, no man can see into the hearts and dispositions of his fellow-creatures, but by analogy, and his own feelings; now the several members of a party, having only private interest for their actuating principle, suppose that interest both in their own and in the opposite factions: by this analogy, they bring down to the level of their own grovelling sentiments, every man whose noble and disinterested views are above their reach; and all the advantage, this person derives from the integrity of his proceedings, is, that of being considered as an exception, that confirms the general rule. In other respects, lord Temple not only resembles cardinal Passionei in the purity of his views, but is like him even in his deportment, his features, and tone of voice.

No sooner was Mr. Pitt raised to the dignity of a peer, but some of his partizans, whom the last revolution had brought into the ministry, made haste to resign, and their places were supplied at the pleasure of the court, whose party, still directed by lord Bute, triumphed at this change, by representing, as lord Chatham's friends and associates, those who had so long considered Mr. Pitt as an irreconcilable enemy.

*Ex illo fluere et retro sublapsa referri
Spes populi *.*

Since the above revolution, the nation has considered this renowned patriot, who had so long been its idol, in no other light but that of an artful politician, who, by keeping measures with

* Æneid. lib. 2.

the court, has followed the path lately opened by the introduction of democracy; the path cut out by the Carterets, the Walpoles, the Pulteneys, the Pelhams, &c. the path followed at Rome by those tribunes who most signalized their zeal in supporting the interests of the people; in fine, the path adopted by the orators of Greece, who found by experience, that popular applause is a frail as well as dangerous support †.

The news-papers, in which, as upon so many altars, incense was continually burning in honour of Mr. Pitt, cease to exhale any thing else but black vapours mixt with the bitterest gall; Pitt's bridge has resumed its first name of Black-friars bridge; the pension which he received from the court is no longer considered in any other light but as a bribe for his forsaking the cause of liberty; the head of this saviour of his country has been

† In all democratical governments this road has led most of the great men to the first dignities of the state; but how many meddling pretenders has it likewise conducted to those preferments, whose heads, tried in the crucible of public business, have had the same fate with that, which possessed the city of Paris about the middle of the last century; the history of which the Abbé le Bœuf has given us in so plain and natural a manner in his *Memoirs of the Diocese of Paris*, Tom. i. p. 200. *Popularis aura; ἀνδρα πικρὴ ἡγνισάμενον τὸ δῆμον, μὴ ποτὲ καλῶς τελευτῆσαι.* *Pausanias in Atticis de Demosthene.* It was in this sense, that Diogenes says of Demosthenes, "That he was the master of Athenian orators, but that the people of Athens were Demosthenes's masters." At the sight of a Gaulish Hercules, a certain person asking who had fastened so many ears to the mouth of that hero? a philosopher replied in the same sense: ask rather, who has fastened that wretch to so many ears?

effaced from the sign-posts ; and as to the statues and monuments of a more durable nature, those who have erected them will, doubtless, imitate the conduct of the Greeks and Romans with regard to the monuments of their illustrious personages in the same circumstances *.

As I had been an attentive spectator of the first contests preparatory to this revolution, I thought it incumbent upon me to take the same notice of those which matured and brought it to perfection. Commotions and disturbances of this nature, whilst they raise the accounts of modern transactions to the dignity of ancient history, afford sufficient proof that popular applause is purchased as dear in England, as it was formerly in ancient Greece.

At the same time, they shew us of what weight the royal authority is still in the English constitution, when it devolves into hands that know how to make a proper exertion of the prerogative. And yet, from the manner of behaviour of the English towards their king, one would not imagine, that the crown was still possessed of powerful resources.

In this point of view lord Bute seems in many respects to resemble the Macedonian †, whose profound and active policy had, by various ar-

* *Non mediocris invidia proditur quæ, civica caritatis oblita, in accerba odia causas amoris inflectit ;* " that can be no inconsiderable envy, which having forgot the affection that should subsist between fellow-citizens, converts the causes of love into the bitterest hatred ;" said St. Ambrose, 44 Comment. in Luc. cap. 4. in an age fruitful in revolutions as well amongst sovereigns as ministers.

† See the first Philippic of Demosthenes.

tifices, led Greece into a snare, from which it was impossible for her to extricate herself. The earl of Bute, would, doubtless, have had the same ascendant over the English, if he had shewn such resolution as cardinal Mazarin and not quitted his post at the very instant that his power seemed to be most firmly established.

The wound which Cromwell † gave the royal authority, is still bleeding. Our constitution, say the English, was then in the most critical situation: it had fallen into the hands of a bold empiric, who preserved it by a remedy as violent as unknown to former ages ‡.

At the entrance of the saloon in the Musæum, which contains the figures of most of the English worthies, the eye is struck by a fine bust of Cromwell, opposite to one of Milton his apologist §. In the repository of medals, his coins find

† In the mouth of an Englishman, the name of Cromwell is the same with that of Caramuel, a famous casuist of the 17th century."

‡ *Ita est inauditum regem capitis esse reum.* Cic. Orat. pro Sextio. "It is a thing unheard of, for a king to be tried for his life."

§ Cromwell found an Englishman who presumed to defend upon principle, and by system, an unprecedented parricide; and the royal family could not, without having recourse to foreigners, find a person that would dare to refute Milton. It was unfortunate even in this choice by singling out for that purpose the Grammarian Salmasius, who, in a work entitled, *Defensio regia*, filled a huge volume of 720 pages, with unconnected fragments of sacred and prophane authors, which, right or wrong, establish the respect due to kings and supreme powers. Huetius, in a letter dated in 1655, writing to Salmasius concerning his work against Milton, gives him a

find a place amongst those of Charles I. and Charles II. The same honour has been done them in the collections of medals and English coins given to the public by the Society of Antiquaries. In fine, the most popular almanacks confound his name with that of Charles the Martyr. I have already taken notice of a certain, peeress, to whom the quality of daughter, or grand-daughter to Cromwell, is less an infamy than a mark of distinction.

It appeared to me a difficult matter to reconcile this high respect for the memory of Cromwell, with the particular service appointed every year throughout England, to expiate the martyrdom of Charles I. Both houses of parliament assist at the ceremony of that expiation, which, whilst it excites compassion for the martyred king, should inspire them with horror for his murderer.

This horror would fall only in part upon Cromwell, if we were to give credit to a libel

piece of advice, which that grammarian should have followed, with a prophecy concerning the fate of Milton, falsified by the event. The passage is this ; *Adversarium hunc, si tu me audias, non aliter ulcisceris quam contemptu & silentio. Longè utiliùs horas tuas collocaveris in aliquo nobili argumento, quàm in defricando nebulone, cujus nomen, absque te foret, nunquam prodibit extra popinas & gurgustia.* If you would take my advice, you would think it sufficient to revenge yourself upon this adversary by contempt and silence alone. You would employ your time to much greater advantage, by treating some noble subject, than by running down a fellow, whose name, had it not been for you, would never have been known, except in taverns and alehouses." *Dissertations on Religion and Philosophy*, Tom. ii. p. 444.
publish-

published in Holland * by Burnet, or by some other author in hire to the prince of Orange. "Certain it is, says this writer, that the condemnation and execution of Charles I. was a blow struck by the implacable jesuits; and it was a member of that society, who performed the part of executioner in that barbarous tragedy. This seems the more likely as the parliament had given orders, that the person, who offered himself as the executioner of that unhappy monarch, should be masked, in order to conceal from the public eye so detestable a parricide. It is at least a fact of public notoriety, that one of the executioner's attendant's upon the scaffold, and who wore a mask like the other, was a jesuit, that he was even confessor to the queen, and that he cried out in a transport of joy, when he saw the king's head struck off his shoulders: "We are now delivered from our greatest enemy."

To give a colour to this anecdote, the author supposes, that, by a secret article of the contract of marriage with Henrietta of France, Charles I. had engaged to restore the Roman Catholic religion, and to cause his issue, by that marriage, to be educated in that persuasion; that the king did not exert himself in carrying that treaty into execution with such ardour as the jesuits could have wished; that he could not prevail upon the independents to release him from his confinement, except by making sacrifices which would totally blast the hopes of the society; and that his death alone could revive their drooping courage, by throwing every thing into confusion. Having taken this resolution, they dispatched to

* In 1691, with the title of Memoirs of the Life of James II.

Rome a grand deputation of fourteen of their fathers, who, being invested with all the necessary powers, returned to England, where, employing catholic agents under a Protestant disguise, either in parliament, or in the independent army, they at last succeeded in their wicked purpose.

This anecdote has met with very little credit even amongst the English *, in whose opinion, as well as that of lady Fairfax, Cromwell is the man, who, by paths known to himself alone, conducted Charles to the scaffold.

But the horror of this crime is now counterbalanced by the weight, which the constitution derived at that period from a mixture of democracy; by the flourishing state of Great Britain, since it has been taught by Cromwell to know, and make a proper use of its strength; by the preponderancy which it has acquired in the balance of Europe; by its naval force, for which, it is indebted to Cromwell's navigation-act; in a word, by a thousand advantages derived from the perpetration of that horrid and unparalleled murder.

Among these advantages, they reckon the expulsion of James II. and the exclusion of the Stewart race. The fate of king Charles ought to have been a lesson to that unfortunate family. To dethrone a king, even in a juridical manner, was but a trifle to a people who had brought their sovereign to the scaffold, and, with all the forms of justice, embrued their hands in his blood: the principles, the views, and the interests, which directed the first attempt, opened the way, and gave a sanction to the second.

At this time started up "a man of invincible

* The English Catholics.

depth and penetration, an artful hypocrite, a refined politician, capable of forming and of concealing any enterprize, equally active and indefatigable in peace and war, who left nothing to the controul of fortune, which he could secure by wisdom and foresight; in fine, one of those turbulent and audacious spirits, who seem born to change the face of the globe." In these strokes, by which the great Bossuet has given us the picture of Cromwell, who does not discover the stadtholder of Holland? This prince displayed, at the Revolution, all the depth, dissimulation, and active intrepidity, which Cromwell had exerted in the grand rebellion; and, like the other, found panegyrists in the very bosom of the church *.

It was impossible for this prince not to have an infinite esteem for a man of whose merit he was so good a judge. Gratitude conspired with esteem: Cromwell had paved the way to the throne for him: in his private conversation, he never spoke of the protector but in terms of the highest admiration.

The writers whom he kept in pay spoke of that usurper with equal veneration. In the Preface to a libel, entitled, *The Oracle consulted by the Powers of the Earth*, printed in Holland, and circulated before the Revolution, we meet with this expression: "The present age has given two kings to England at the time when she flattered herself to see an end put to these sanguinary

* Abbadie, so well known by his *Treatise of the Truth of the Christian Religion*, published in 1692, a *Defence of the Rights of God, Nature, and Society*, in the last Revolution of England.

reigns,

reigns, by the measures which the incomparable Cromwell had just adopted."

In another contemporary Treatise, whilst the author gives these measures their proper appellation, he answers the complaints of France concerning the proceedings of the Catholic sovereigns, who acknowledged the prince of Orange as king of England; by reminding that power of her behaviour during the ministry of cardinal Mazarine, when she had begged and received from the hand of the usurper, still reeking with the blood of his sovereign, a most shameful peace, the first article of which for ever divested a prince of the Bourbon family, a grandson of Henry IV. a nephew of Lewis XIII. and a cousin-german of the king upon the throne, of his undoubted right.

The revolution of 1688 proved equally beneficial to the nation, and to the prince whom it raised to the throne. The republican principles, upon which Cromwell had founded the protectorship, after having in part regulated the conditions of the restoration of Charles II. determined those upon which the prince of Orange thought proper to purchase the crown. He had vainly flattered himself that length of time, and an artful management of conjunctures, would diminish the weight of these conditions: but the nation exerted its utmost efforts to render them still more burthensome, and persevered in that purpose with such resolution and constancy, as frustrated the measures of the new king, and embittered the remainder of his days. The forces, which he wanted to keep on foot, after the peace of Ryswick, were disbanded; and his importuning the house of commons to suffer him to retain his Dutch guards, drew upon him this threaten-
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ing answer: "That the house requested his majesty to name the persons, by whose advice he made a proposal of so pernicious a tendency." In settling a triennial parliament *, the nation triumphed over his repugnance, and his open and concealed efforts to oppose that establishment †: in a word, king William, who was received in England as Manlius Capitolinus had been at Rome after the expulsion of the Gauls, found himself obliged to bear from the jealousy of his English subjects, all the mortifications and insults which the saviour of the Republic had endured at Rome.

The title of the house of Hanover to the throne of England being only a continuation of that of king William, that house has the same reasons with the prince of Orange to think favourably of the man, who first dared to stain the ax with the blood of the Stuarts.

Thus every circumstance, both with regard to the sovereign and the nation, concurs to rescue the memory of Cromwell from that infamy, to which it seems to be condemned by the solemn anniversary of the martyrdom of Charles I. this ceremony, like many others, is continued, be-

* This establishment was one of the hardest conditions which the long parliament proposed to Charles I. who could not be prevailed upon to grant it, till he found himself under a necessity of granting every thing.

† I have been informed that this was the only affair in which the late kings of England asserted their right of refusing the royal assent, which gives the force of laws to bills past by the two houses of parliament. They, however, neither do nor can refuse this assent, otherwise than by declaring, that they will take the *thing into farther consideration.*

cause

cause it has been established, and it would not be decent to abolish it. Historians seem to be equally reconciled to the memory of Cromwell: History, says father d'Orleans, is not so entirely devoted to pure virtue, as to refuse a place amongst great men to such a superior genius, had he committed fewer crimes *.

I have heard some Englishmen, staunch friends to the present government, lament the approaching extinction of the house of Stuart, not so much from any personal attachment to that family, but through apprehension of losing some advantages accruing from a pretender; such as the inquietude with which a competitor necessarily inspires the mind of a person possessed of a dignity that admits no rival; the check which the sight of an abdicated family is to the prince on the throne †; the respect which the latter owes a nation, that has it every moment in its power to recal the former, even in virtue of those very laws which have pronounced its exclusion ‡; finally, the happy fermentation kept up in the minds of the people by the parties of whig and tory, who derive mutual lights from their unceasing rancour and animosity.

Mr. Hume, in his Political Dissertation on the Protestant Succession, whilst he lays it down as a maxim, that the rights of the house of Stu-

* *Revolutions of England.*

† *Illud imprimis intelligendum est, legibus minime coerceri æstus majestatis.* Spelman, Codex Leg. veterum in Johann. “This is to be well considered, that the passions of kings are never kept in restraint by the laws.”

‡ *Inter duos litigantes tertius gaudet.* “Whilst a law-suit is depending between two, a third is the better for their differences.”

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art, which he represents as sacred and inviolable, might be sacrificed to the convenience, the well-being, and the interest of the nation, and that this sacrifice should be irrevocable, reasons less like a philosopher than like a good whig and a zealous puritan, who has, notwithstanding, lost sight of the consequences of the original contract. Upon these principles, every sovereign may lawfully erect himself into a tyrant, if convenience, and his advantage require it. *All things are lawful to him to whom all things are expedient.*

The situation of Great Britain, between the houses of Stuart and Hanover, is the same in which Peloponnesus and part of Greece stood, between the Pelopidæ and the Heraclidæ, who disputed the sovereignty of those countries between them, and possessed it alternately during two or three centuries. In the times called the heroic ages, under the government of kings, who were citizens, and honoured with the humble and modest title of pastors of the people that had consigned themselves to their care, the Greeks made use of those dawnings of liberty to lay the foundation of that grandeur which they afterwards attained. They united themselves by alliances, and in one national body formed the famous siege of Troy; they opened the Euxine sea to their fleet; their colonies covered the islands of the Archipelago; all Asia-Minor was filled with Greek cities: navigation, commerce, and all the polite arts, owed their improvement to these great enterprises and to the love of liberty, a love to which the Greeks afterwards devoted themselves with a degree of enthusiasm and perseverance, unparalleled in history. In a word, the revolution which paved the way for the liberty of the Greeks, was owing to their making
a right

a right use of the competition between the two families, which contended for the empire of that country.

Athens ruined by the defeat of Ægos-Potamos, owed its preservation to these views which regulated the conduct of the Spartans. Thebes, Corinth, and all the allies of Lacedæmon, called loudly for the destruction of a city, which had long made an insolent use of usurped authority. "No, said the Spartans, Athens shall not perish: she has been of too much service to Greece: let her become our ally, and relinquish the empire of the seas which she has abused *." By this resolution, Lacedæmon, whilst she preserved a rival, gave to her own authority a counterpoise, which, divided it in appearance, but strengthened it in reality.

The history of the Turks presents us with an object of the same nature in the competition of the Alides and Ambassides. The authority of the latter became unbounded, and was finally crushed under its own weight, when the descendants of Ali were no longer their rivals.

Cromwell considered a competition of this kind as a necessary aid to perpetuate the supreme power in his family. No man understood human nature better than he: superior to the prejudices of parents in favour of their children, he looked upon his son Richard as a very weak man, and of a character quite the reverse of his own, which was that of resolution, vigour, and firmness. The royal family of England owed its preservation to the consequences which he drew from this knowledge. He was desirous of leaving a coun-

* Xenophon, Hist. lib. ii. Plutarch, in the Life of Lyfander.

terpoise to his son, which might be a means of keeping him steady; a spur to urge him on, and counteract the softness and indolence of his natural disposition; a support, in short, for an edifice, whose foundations bore no proportion to its magnitude. He was likewise acquainted with the restless disposition of his countrymen: he thought he had fixed and determined them against the Stuarts by all the ills they had made these princes suffer*; in fine, he had brought the English nation to such a pass, that it appeared to have nothing to fear except the restoration of a family, whose resentment could not but be equal to the ill usage which it had received.

With these views, and upon these motives, he saved the house of Stuart which he might have crushed†: the ministers of most of the courts, to which that great and forlorn family repaired under their misfortunes, would not have been so scrupulous as to refuse such a sacrifice to a man, to whom they cringed and fawned, and even sacrificed all the most sacred ties of humanity‡.

Charles

* *Non pardona mai chi offende*, "He never pardons who does the injury," say the Italians, who must certainly understand the subject.

† *Perdere potui, servare an possum regas?* "I could destroy; do you ask whether I am able to save?"

‡ In the very year that Charles I. was executed, those of the faction of the Frondeurs at Paris, had caused a satire to be printed, which discovered the subsequent conduct of the courts of Europe upon occasion of that great event, and the indifference with respect to an attempt which they should have considered as the common cause of all crowned heads. I have a collection of Mazarinades, in which there

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Charles II. shewed his gratitude to the son of Cromwell, for the politic generosity with which the father had behaved to the exiled family. His vengeance fell only upon the corpse of the usurper, and upon the tradesmen employed in his funeral, who could never obtain payment: in consequence of a clemency unparalleled in history, whether ancient or modern, Richard Cromwell descended, like a judge from his tribunal *, from a throne embrued with the blood of his sovereign, and with that of the noblest families in the nation, amongst whom he lived to a great age, enjoying that tranquillity for which he seemed by nature formed, and a security which he could hardly have expected. Wilkins, brother-in-law to Cromwell and one of the most zealous chiefs of the republican party, was nominated by Charles II. to the bishoprick of Chester: the Royal Society owed its establishment to him, for he was one of the chief promoters of its interest with that prince †.

The English are divided with regard to the intention which queen Anne is supposed to have

is a piece, entitled: An Agreement between the four Emperors of the East, to revenge the death of the king of England. Paris, printed for Marlot, 1649, 8 pag. 4to. The learned David Blondel since published Considerations Political and Religious, wherein he launches out into invectives against those sovereigns, who, instead of revenging the death of Charles I. rivalled each other in courting the alliance of his executioner.

* *Ut si clientum longa negotia,
Dijudicatâ lite, relinqueret.* HOR.

† Wood. Antiq. Oxonienses.

had

had of recalling the exiled family to the throne * of Great Britain: they prove this intention by the sudden dislike of that princess to the duke of Marlborough; by the unexpected revolution in her ministry; and lastly by the steps which determined the peace of 1713. Others are of opinion that as she did not restore the exiled family, she never had such an intention.

But we should take notice, that queen Anne did not long survive the peace, and that the elector of Hanover, supported by the whig party, and that of the old ministry, neglected nothing to maintain his pretensions. That prince ascending the throne of Great Britain, wreaked his vengeance on queen Anne's ministers for the uneasiness they had given him: the heads of that administration owed their safety to a precipitate flight †. The efforts of the Jacobite party, encouraged by confidence in the queen's intentions, were stifled and quelled. In fine, the negotiations and the alliance of George I.

* Rapin Thoyras has spoken of this intention with an impartiality, which he does not shew upon any of the points nearly or remotely connected either with France or religion. He has even run into excess in this respect, first in saying, tom. xii. p. 551. "thus died Anne, Stuart, not without a suspicion little honourable to her successor's party;" and afterwards in the next page, "it would be a folly to ascribe her death to any other cause but her fondness for spirituous liquors; that is the poison which caused her untimely death."

† See the articles of impeachment against Robert Harley, earl of Oxford; James, duke of Ormond; and Henry, lord viscount Bolingbroke; translated from the English, and printed at the Hague in 1715: and the trial of the earl of Oxford, published in 1717.

with

with France, utterly defeated the hopes of the abdicated family.

The addresses of both houses, and all the speeches of the kings of the house of Hanover to parliament, are filled with protestations of attachment to the present constitution. If it be fundamental, as it was stiled at its first establishment, and the several revolutions by which it was restored to its original state, why do they not call it constitution purely and simply! By constantly adding to it the epithet *present*, it appears that the nation, and even the princes themselves, considering it only as a present possession, retain some doubt with regard to the reigning family's right to the throne*.

If oaths, which seem to be intended as a security to the constitution, have any force, can this be supposed to be the case in England, where twenty such oaths were never any obstruction to the princes of York and Lancaster, whenever they had an opportunity to ascend the throne? How easily was the restoration effected in 1660, notwithstanding the oath which in Cromwell's time bound the whole nation to the *present constitution!*

Time and experience will teach the English what they have gained or lost by the extinction of the Stuarts. If they are losers, they will,

* In 1650, the parliament had established the form of an oath to be taken by all those who offered themselves candidates for any dignity, place or employment, which was couched in these terms: I promise to continue faithfully attached, and constantly subject to the present commonwealth, without either king, sovereign, or lord. See the Tracts of Dr. Saunderson relative to this oath.

doubtless,

doubtless, ascribe it to the profound policy on the part of France, which so greatly contributed to establish the house of Hanover in the possession of the throne of England*.

THE HOUSE OF COMMONS.

What I have said at the article Peers and Government, is sufficient to give an idea of the upper house of parliament: the same interests, the same factions are common to it with the lower house: as they are both similar in this respect, it will be sufficient to treat here of the commons.

England had always freemen and free-holds: the maxim, no land without a lord, was neither in the Roman civil law, nor agreeable to ancient manners, the spirit of which the laws of Rollo could not extinguish either in Normandy, or in England where they obtained after the Conquest.

Those manners have constantly tempered the excesses of that law, which violence and the abuse of power first introduced; of that law which the decline of the Carlovingian family had spread over all Europe; of that law, in a word, which is the height of injustice and absurdity to every man, who sees it in any other light but that in which it has pleased the count de Bou-lainvilliers to view it.

The vassals, however, subject to this law, lived very peaceably under masters, whose interest it was to protect and defend them, as well as

* *Hoc Ithacus velit & magno mercentur Atridae,*

to promote their increase : those masters treated them as the antient Romans did their slaves : it was the *justa & clemens servitus* of Sofia in Terence. In passing from this state to liberty, it may very justly admit of a doubt whether our peasants have bettered their condition. If the advantages and disadvantages of their ancient and present state were weighed in the balance of reason, the latter perhaps would, in many respects, appear to be in the case of the game upon a common, free to every sportsman.

The history of the middle age has preserved the memory of certain facts relative to the ancient state of vassals, which should, doubtless, be considered as exceptions to the general rule. In 1248, during the first voyage of St. Lewis, the dean and chapter of the cathedral of Paris dragged their vassals of Chatenai-sous-Baigneux from the country, and kept them in their own prison in that capital, for refusing to pay them certain dues ; and, in order to force them to a compliance, they would allow no subsistence to the poor wretches. It was to no purpose, for queen Blanche to intercede for these unhappy people : the chapter, far from yielding to her intreaties, caused their wives and children to be seized and confined in the same dungeon, insomuch that many of them were stifled for want of air. The queen, provoked at this extreme rigour, repaired in person to the prison at the head of a company of armed men, struck the door with her stick, ordered her attendants to break it down, set the poor people at liberty, and caused the temporalities of the chapter to be seized, till entire satisfaction should be made *.

* Latin Chronicle, by Auteuil, in the Appendix to his Hist. of Queen Blanche.

The

The panegyrist of St. Lewis seem to be ignorant that a great part of the franchises are dated from the reign of that prince, who, whilst he exerted himself to promote the interests of humanity, carried his grand-father's plan into execution for the re-establishment of the royal authority. Long before this epocha certain noblemen had made some of their vassals free, upon condition of their paying a particular sum towards defraying the charges of their expeditions beyond sea: thus is Europe indebted to the Crusades for the beginning of its liberty. The body of the clergy never taking part in these expeditions, had no influence on the condition of their vassals, who being, at the same time, considered as attached to the glebe, were like it unalienable: their freedom was the work of the royal authority, in attempting to resume its rights.

The commons of England, of whom the gentry and the inferior clergy make part, do not, in the least, resemble those of France. England has retained only a very small number of collegiate churches. The chapters of cathedrals are by no means numerous; in fine, the parishes, even those of London, have two or three persons, either in priest's or deacon's orders, to officiate in them, and most of them are married.

The magistrates are, in comparison, equally few in number. The towns are not overburthened with that multiplicity of jurisdictions and little magistracies, by means of which, says Loiseau, every petty citizen in France has his little office in his own town,

as every monk has one in his cloister *: these little offices suit the narrow faculties of those petty citizens as a shoe fits a foot; faculties purely pecuniary, to the exclusion of the intellectual, which never entered into bargains of this nature. “We must be something, cry men in concert, who of themselves would be nothing †.”

Mezeray in the first edition of his Chronological Abridgment, ascribes this increase of offices in France to the pope’s residing at Avignon: “They have brought amongst us, says he, and have left us, simony and a rabble of scribes.” The expression is low; but the fact is true.

Budeus, in his Observations upon the Pandects, inveighs with equal energy against this increase, which may be dated from the reign of Lewis XI. Seissel, who wrote under Francis I. says in his *Monarchy* ‡; that in his time there were more offices in France than in all the rest of Christendom: for a hundred that were in the time of Seissel, adds Loiseau, who lived in the reign of Lewis XIII. there are now a thousand, and over and above this number, more than 5000 have been created within these fifty years.”

In the sixth of his political emblems the learned Diego of Saavedra considers the multiplication of the offices of judicature in his country;

* Loiseau in his Treatise concerning Offices, l. iii. c. 1. § 8.

† Preliminary Discourse to the Poem of the Seasons.

‡ Lib. i. c. 14.

and looks upon it as one of the principal causes of the depopulation of Spain. If, notwithstanding this, we consider these offices with the eye of a politician, and apply to them the considerations of Plutarch in his problems concerning the effects of buying and selling in the election of magistrates for the ancient republics, perhaps it will result from thence that our offices, multiplied by views merely pecuniary *, have, in the end, made the balance incline to the authority which had established them; in the same manner as in the ancient republics, when buying and selling had caused a democratic state to be converted into a monarchical government. England may ascribe the equality, which she has maintained in the balance of power between the king and the nation, to this particular circumstance, that her kings, contemporaries of Lewis XI. of Lewis XII. and of Francis I. left the courts of judicature in the same state in which they found them.

Arrangements of an opposite nature, whilst they enable individuals in France to increase their fortune by public employments, afford no opportunity to gentlemen in England of making any figure or acquiring any settlement but by landed property, the value of which depends on the competition of purchasers, that is to say, bears no proportion to its real product.

The commons of England therefore consist of men who live upon their fortune, or who are divided between commerce, manufactures,

* These are pledges of fidelity put into the hands of princes: they are a sort of wagers in favour of the present constitution.

and agriculture. The men of these several ranks are called *good men*, yeomen or freeholders, when they have land of their own to a good value. They compose that order of citizens whom our old customs call *free persons* in the country, and noble *burghers* in towns: these are the *good men* whose assistance is so frequently called for in Froissard, Monstrelet, &c. by the kings of France and England*: those princes gave the appellation of their good towns to those in which there was the greatest number of *good men*; and it is in this sense that the king to this day, distinguishes Paris by the peculiar name of his *good town*. The most remarkable privilege

* Those two kingdoms were then governed, with regard both to the finances and the order of judicial affairs, by the same principles. Ioly, in his Remarks upon the Works of Loyfel, p. 490, cites a remonstrance made to Charles VII. in open council by John Juvenel, archbishop of Rheims. This remonstrance, which is preserved in the king's library, proves the necessity of the consent of the nation to the establishment of imposts, then known by the appellation of *Oâtrois*: "I was informed, said the archbishop to the king, that there was in your privy-council a person, who said in your presence upon the subject of levying money upon the people, who were represented as exceeding poor, that *the people are always grumbling and complaining*: which was a thing very improper to be said in your presence. For it is rather an expression to be uttered to an inhuman tyrant that has neither pity nor compassion upon his people, than before you, who are a most Christian king. Whatever some may say of your kingly power, you cannot take what is mine: what is mine, is not yours. In matters of justice you are sovereign, and the jurisdiction is yours: you have your crown-lands, and each individual has his."

which

which these good men are vested with in England, is the right of carrying arms, and hunting upon every ground, except the king's forests.

Every circumstance besides concurs to bring people in easy circumstances to a level with the nobility, of whom they are a seminary, and with whom such as are fond of titles, have a thousand means of incorporating.

I have spoken above, at the article Commerce, of a law of Edward I. in virtue of which every free man possessed of land to the value of twenty pounds a year, was obliged to get himself admitted a knight, *miles*, upon paying an inconsiderable sum.

Matthew Paris, William of Westminster, the laws of Henry III. and Edward I. shew that the citizens of London enjoyed, with the title of baron, privileges proportioned to the influence of that capital in every revolution. Those privileges were afterwards extended to the cities of York, Chester, &c.

The commonest method of raising a person above the order of a plebeian, is the king's nomination to a dignity in the law, or the army, or to any particular commission. The king's simply making a man a knight, founds a title, upon which the herald's office makes out a genealogy and a coat of arms for the candidate*.

It

* Before the Norman conquest, it was the church that conferred the rank and title of knight. The Normans, far from adopting this custom, considered it in the same light in which it might be viewed at present: *Consecrandi militis Normanni consuetudinem abominantes non legitimum militem talem terebant, sed*

It is likewise a received custom for lawyers, physicians, professors at an university, and all those who live genteely by the polite arts, to take the title of Esquire. They assume it in all deeds and instruments; and even inscribe it on their tomb stones. The house in which a 'squire dies, bears his atchievment during a twelvemonth, painted upon a black ground in a large frame of the form of a lozenge, affixed to the outside of the building in which the 'squire breathed his last.

In England, as well as in other countries, a person is raised above the order of plebeians, by the profession of arms, by places given by the king, by the confidence with which a man affirms himself to be a gentleman, by descendance from a man who has shewn such confidence; by removing from the province in which a person received his birth to another in which he is less known*; in fine, by the condescension of the public and even of the gentry themselves, in favour of these regulations, the more amusing to the public as they hurt nobody, and the less interesting in England, as the law acknowledges no other nobility than the peers of the realm.

foecordem equitem & Quiritem degenerem reputabant.
 "The Normans, abominating the custom of conferring knighthood, did not consider one so knighted, as a lawful knight, but as a poltron and a degenerate Roman." *Ingulfus, among others Writers of English History*, p. 901.

* According to the Italian proverb: *Passato il fiume o la montagna, ogni gualant-buomo è gentil-buomo.*
 "The river, or the mountain being crossed, every gentleman is a nobleman." It is a great piece of simplicity, says la Bruyere, for a man to own at court any meaness of origin, and not to profess himself a gentleman born. 8th edit. p. 299.

This

This is likewise one of the vestiges of the antient manners of Europe, recorded in the archives and diplomas of our kings of the second race, and totally abolished in France under the anarchy of the feudal law. This law being made the only regulation of our political and civil government, turned the kingdom of France into a grand fief, in which the title of noblesse was extended to all who possessed any portion of lands held of the crown.

This facility of admission into the order of noblesse will not seem surprising to those who are acquainted with the history either of the Greeks or the Romans, amongst whom rank was settled either by riches, or great actions, or by the preferments naturally arising from merit and opulence †.

Piata himself proposed this distribution for his republic. God, said he, when he created men, mixed a tincture of gold in the composition of some souls: 'tis such as these that are formed to command. Those which have in them only a mixture of silver and brass, are intended for arms or bodily labour. Examine, adds he, speaking to the chief persons of his commonwealth, what metal is mixed in the souls of your children: if it be of iron or brass, confine them to the classes for which they are born; and if in these classes there are children whose souls have a mixture of gold, make all

† Those enlightened nations seemed to suppose what the good native of Champagne desired, who said, "Why did not Adam think of assuming the dignity of king's-secretary? We should then have all an undisputed right to the title of gentlemen." Eph. Troy, 1767, p. 175.

expedition in giving them to the republic, which, according to the oracle, must perish when silver and brass bear sway."

Rome owed its grandeur to the perpetual competition between the ancient families, and the *new men*, who often eclipsed them. Under the first Cæsars, Agrippa and others of equal meanness of parentage, saw all the great families of Rome at their feet*, which were constantly forgotten in the election of emperors†; in fine, the empire no longer had any distinguished families, but those of the order of senators: now in tracing things up to the first Cæsars, we find the senate-house opened to, and the laticlave successively bestowed on, all the subjects of the empire, who had fortune sufficient to support that dignity‡, whatever might be the source of their opulence.

* *Et Paulos & Fabios Max. & Cossos & Servilios & agmina nobilium non inania nomina præferentium sed imaginibus suis insignium.* Senec. de Clem. lib. i. n. 9.
 "Both the Paulus's and the Fabius Maximus's, the Cossi, the Servilii, and crowds of noblemen, not bearing empty names, but illustrious for the statues of their ancestors."

† The following lines of Juvenal were addressed to them.

*Stemmata quid faciunt? Quid prodest, Pontice, longo
 Sanguine censerì, pictosque ostendere vultus
 Majorum, & stantes in curribus Æmilianos?*

Sat. viii. v. 1.

‡ *Galli braccas deposuerunt et latum clavum sumpserunt effusa est in curiam omnis Barbaries.* "The Gauls have laid aside their breeches, and put on the laticlave; all the Barbarians have rushed into the senate." Suet. Tacit.

The

The origin of the French nobility, and the privileges by which it is transmitted, are founded, 1. On the personal exemption from imposts, established by barbarous nations in favour of their warriors. 2. On the order originally established for the succession to fiefs.

Now these two causes have been null and void with respect to England near seventy years past: in the reign of William III. the *scutages*, which, for three centuries arose out of baronies and knight's fees, were, like the *tallages* and other imposts of an ignoble and inferior kind, converted into equal assessments, or into customs on consumable commodities. The nobility and the clergy are, in this respect, upon a footing with the common people, as well as with regard to public works, that are carried on by means of tolls, from which the king himself is not exempt. As to what concerns the fiefs, every man becoming qualified to possess them, reason and sound policy have at last resumed their rights, invaded by ignorance and barbarism, which had raised, and so long supported the feudal system. With regard to the peerages conferred by the king, they are titles *sine re*, and *castles in the air*, like the titles of Castile.

The personal tallage or poll-tax, established in France a useful and very real distinction in favour of the nobility, who were exempted from paying it*: this distinction being usurped by the richest

* This exemption was granted only to such persons as were ennobled, and on condition of paying the sum, to which the indemnity of the people, belonging to the place where those ennobled persons

richest citizens, threw the burthen of all public offices upon the common people ; which, in 1666, determined the conucil of Lewis XIV. to make an inquiry into those who had intruded themselves into the rank of the noblesse. But in prejudice of the people whom they seemed desirous to serve, this research, without adding in the least to the lustre of the ancient families, has created new ones, and resigned to idleness and indolence a multitude of insignificant persons, who are totally lost to the state, to which they think themselves of the highest importance *.

Since the establishment of the real tallage, or land-tax, the nobleman pays at least in part by his tenant, according to the views of certain intendants of provinces ; even the *corvées* being replaced by contributions upon the score of the

lived, might amount, according to the estimate of their substance, and of their means, in case they should be bound to pay tallage. This clause was always added to the patents of nobility granted by Henry IV. and by Lewis XIII.

* Huetius, bishop of Avranches, had been put to trouble by the tax-collectors upon enquiring into his descent : *Tam importunè*, says he, of those collectors, *tàm insolentè abutebantur potestate sibi concessâ, ut familias aliquot certâ & indubitâtâ nobilitate gaudentes dejicerent de gradu & referrent in ordinem plebeiïorum ; obscuras alias et ignobiles nobilium jure donarent.* Com. de Rebus suis. l. iii. p. 197. “ So importunately, so insolently did they abuse the power granted to them, that they degraded certain families of unquestionable nobility from their rank, and reduced them to the condition of plebeians, and conferred the rights of nobles upon others which were mean and obscure.”

tallage †, fall likewise in some measure upon the noblesse.

By this change in the method of levying the tallage, the state finding itself uninterested in preserving the barrier which separates the plebeians of easy fortune from the noblesse, it is almost as usual, at present, to ennoble families in France as it is in England; and usurpations which prejudice no body, are become of no consequence: by this enobling, by these usurpations, and by the acquisition of preferments annexed to the no-

† The realising the tallage has no other inconvenience attending it but the obstruction it raises to the increase of the horned and other cattle in level countries, where they constitute the chief wealth of the owner. It is well known how much the husbandman dreads whatever may increase his fold. Might not this very dread be turned to good account by fixing the quantity of cattle, which each peasant should possess in proportion to the ground he tills, to the extent and fertility of that around his village, to the number of common pastures, and to the nature of the soil; and by levying the tallage upon the cattle only, which might be wanting to the quantity fixed for each inhabitant. Even by gradually increasing this quantity, there would result as much good as there does harm, from the increase of the tallage in proportion to that of the cattle. The quantity being once made up, the default, which would result from thence in the tallage, might be supplied from those lands which should yield the most profit, by new modes of manure, and of course by the increase of fertility. Even by falling to the king's account, the default would be abundantly compensated by the increase of the product upon all objects of consumption. This measure requires only commissioners, whose views are not confined to the salary arising from each fold.

bility,

bility, every rich citizen is allowed in those provinces, where an equal division of inheritances is established, to entail beggary upon the second or third generation.

We must, however, take notice that in England, whose laws are, in every respect, favourable to the eldest sons, none are incorporated into the order of the nobility, except citizens, whose fortunes arising from industry and œconomy, are as beneficial to the state as to those who possess them. But in countries where the management of the revenue happens to become the shortest and surest road to opulence, there might, perhaps, be reason to apprehend, that the first order in the nation would soon consist entirely of farmers of the revenue.

England is secured from this fear: its laws, its prejudices, the patriotical enthusiasm of all orders in the state, the little esteem in which the financier's profession is held, the multiplicity of lawful means of making a fortune, which are open to honest industry, all these circumstances seem to secure to it that perpetuity of refined manners, generous sentiments, and public virtue, from which the nobility derive their true lustre.

The gentry do not consider themselves as beings that have nothing in common with the *good men*. They look upon the wealth which has raised them to that distinction, as the only means of supporting it: through gratitude as well as necessity, they continue to act as merchants, husbandmen, insurers, lawyers, physicians, &c. and bring up their children to those professions. In their opinion, rich and industrious gentlemen are as important and respectable, as those who loiter away their time in sloth and indigence.

The

The same principle regulates the marriage of the English gentry. They form alliances either with their equals, or with tradesmen enriched by honest industry. Their richest heiresses are married to peers of the realm, who frequently having relations of their own in trade, do not think themselves disgraced by these alliances. The mixture and confusion, as it were, which results from hence, between the nobility and the mercantile part of the nation, is an inexhaustible source of wealth to the state; the nobility having thus acquired an accession of wealth by marriage, the tradesmen make up the loss by their eager endeavours to make a fortune; and the gentry conspire to the same end by their efforts to raise such an estate, as shall procure a peerage for themselves or their children.

I shall add to what I have already said, in the preceding volume, that the author of the *Present State of England*, published immediately after the Restoration, confirms the æra which I have fixed for the introduction of commerce into noble families in England, by his railing against the trading nobility. After taking notice, that the laws of England consider the marriage of a noble ward with the daughter of a merchant, as scandalous, and that they authorise him to have recourse to law in case such a proposal should be made him by his guardian; he adds in a plaintive style: “It is not long since the nobility of England have bound their children apprentices, which is a state of downright servitude. It must be acknowledged, to the disgrace of our nation, that we have beheld not only the sons of baronets, knights, and gentlemen in shops, and sometimes attached to the meanest trades, more calculated for women than men; but we have even seen an earl

earl of this kingdom compel his son to learn such a trade. But, adds the writer, the folly of the English in deviating from the maxims of their ancestors, appears from those young gentlemen seldom having been able to use themselves to that servile way of life."

What would this writer have said, had he taken into consideration one of our ancient French customs mentioned in the first note upon the article which I have just spoken of, a custom which, in express terms, authorises the nobility to live as merchants or plebeians? Dumoulin, one of the greatest lawyers in France, has put a more favourable judgment upon it*.

The right to civil offices, and that of voting at elections for members of parliament, give the common people of England a considerable degree of importance in the state: every citizen boasts of ideas and sentiments suited to this rank, which were unknown even to the people of Rome in the latter ages of the republic.

With sentiments so lofty these very citizens unite a species of slavery, to which absolute monarchs are entire strangers, but which existed amongst the Romans in the brightest ages of their

* *Prima facie*, says Dumoulin, *stulta videtur ista consuetudo; sed non est ita, quia valet pro secundò genitis, qui sunt pauperes sæpiissimè, et interim coguntur mercaturam exercere; donec, meliori sorte adeptâ, nobilitèr vivere possint & arma pro republicâ gerere.* "At first sight, says Dumoulin, that custom seems foolish; but it is not so, because it is of service to younger brothers, who are often very poor, and in the mean time are obliged to live by trade, till their fortunes improve, and they are enabled to bear arms for the state. *Comment. upon the sixteenth Article of the customs of Troyes.*

republic,

republic, and was connected with the republican manners of the ancient Gauls described by Cæsar. This slavery is founded upon the nature of the government and the love of liberty *.

It consists in a connexion of dependency which unites all the orders of the state, and every citizen dispersed throughout these different orders. These connections went at Rome by the name of *Clientelæ*, or clientships: from the *princeps senatus* down to the lowest citizen *qui rem habebat*, the inhabitants of Rome were distributed by gradation into patrons and clients; insomuch that a citizen, who was the patron of forty or fifty persons below him, might be, at the same time, client to personages of a superior rank.

Clientships are formed in England; 1. by the tie of being fellow students; and this is one of the chief advantages of having studied at the same university with persons of distinction. A nobleman there becomes of course the patron of all those, who, being educated with him at the same college, have deserved his friendship. Under the name of patronage, this friendship lasts as long as life itself; the patron promotes the interest of the persons under his protection, who mutually serve their patron with their pen, their tongue, their credit, and in short, with all their abilities.

2. By neighbourhood, a great lord is generally the patron of the inferior gentry, and of the midling class of people who are spread around his residence.

† *Patres valere decet consilio; populo supervacanea calliditas est.* Sallust. "The senator should be potent in counsel, as sagacity is foreign to the common people."

3. By

3. By party-zeal, which had placed at least two thirds of the inhabitants of England under the patronage of Mr. Pitt. I have already spoken of the statue which the city of Corke caused to be erected to him; a homage, copied from that which the cities subject to the dominion of Rome paid to their patrons: the noble legacy bequeathed to Mr. Pitt by one of his admirers, is an imitation of the customs of ancient Rome.

By means of these clientships, changes in the ministry are generally felt throughout the nation*: every new minister endeavouring to place his clients, whom he calls his *friends*, in the manner best suited to their abilities, to their profession, to their condition, but seldom to their pretensions. He, who neglects this step is undone; he is accused of ingratitude by his whole party: a person called to the administration, has no chance of continuing in office, without a number of adherents to support him; the several factions quickly unite to oppose him, and to point him out to the nation as a common enemy.

Noblemen do not in England stand in need of the suffrages of the people, like the great personages in the Roman republic; but as their national credit is estimated by their influence in the house of commons, and this influence is proportioned to the number of creatures whom they have in that house, it is easy to perceive how much it is their interest to gain over the freeholders who vote at the election of members.

* In the same manner as changes in the pontificate are felt throughout modern Rome.

These

These connections being formed, and supported by mutual interest, are the grand spring and *primum mobile* of factions. Such noblemen as have most interest, are like so many colonels at the head of regiments, always under arms; and in the contests between those factions, as in combats upon the field of battle, the victory generally speaking, declares for the most numerous battalions.

In the midst of these struggles, the king of England, like Homer's Jupiter, lets fall his golden chain, which attracts all around it, and keeps them suspended in the air*. This chain restores to the regal power that weight which it lost by the dimunition of the prerogative at the Revolution. Sir Robert Walpole, a minister most expert in managing this chain, laid down these two maxims: 1. That every man has his price, which ought to be found out. 2. That a minister is often obliged to bribe the members of parliament to vote, not against, but according to the dictates of their consciences†.

In England, however, as well as amongst the ancient Germans, and at Rome in the bright days of the republic, the quality of client implies nothing mean or servile‡. It did not be-

* Τὰ δὲ καὶ αὐτὲ μετῴρα πάντα γένοιτο. Iliad. l. viii. v. 26.

† Estimate of the Manners and Principles of the Times, by Dr. Brown.

‡ Cities, nations, kings, had patrons in the Roman senate, who were paid in proportion to the services expected from them: this patronage constituted a part of the patrimony of the chief families in the senate. The same rights have been perpetuated in the senate of modern Rome, by the protection of kingdoms.

come so at Rome till the political ties, which it formed, were destroyed by the centering of all power in the person of the emperor ||. After that revolution, the place of clients was supplied by parasites, whom their patrons satisfied by giving them a certain portion, either of provisions or money *. Hence Martial reckoned amongst the means of leading a happy life, freedom from the duties annexed to this new sort of clientship †, which, notwithstanding its meanness, became, in a degenerate nation, as general, as the former had been in the days of the commonwealth ‡: all had been clients, all became courtiers.

The country towns in England have an importance which such places are destitute of elsewhere: this they owe to their right of sending members to parliament every seven years. Their importance would be greater, if the members were bound to regulate their conduct in parliament, by the particular, or at least, by the general instructions of their constituents; but under pretence of the impossibility of consulting them upon that infinity of objects which

|| *Omnes, exutâ equalitate, nutus principis aspeclare.* Tacit. Ann. l. i. c. 1. "All being stript of their equality, depended upon the prince's nod."

* *Cliens et jam certus conviva,* "A client, and by this time a constant guest," said Horace, in the most agreeable of his epistles to Mecænas.

† *Toga rara.*

‡ Persons of the first quality did not blush to mix with this servile herd.

Jubet, says Juvenal, à præcone vocari

Ipsos Trojugenas: nam vexant limen et ipsi

Nobiscum: da Prætori, da deinde tribuno.

engage

engage the attention of the houses, the members, trusting to their own understanding and knowledge of matters, treat their constituents, in the same manner as bishops assembled in council do their diocesans. At each new meeting of parliament, we see new laws proposed, which tend to shackle both the electors and the elected; but either these laws do not pass, or they remain unexecuted; it being the interest of the court to have recourse to every expedient, capable of insuring its influence upon elections and debates in parliament.

The corporations of the towns in England, have likewise retained all the authority and all the privileges, which they formerly enjoyed in common with the towns of France. I have spoken of the corporation of the city of London, of its jurisdiction, and of the weight which it has had in all revolutions. I shall add, that besides its jurisdiction upon the river Thames, it is possessed of the entire property of the course of that river, both in London, and for fourteen leagues, as well above as below that city. This property is exerted in the privilege of fishing, which it grants for ten guineas per mile; and the multitude of swans which it maintains upon the river. It is forbidden, under severe penalties, to kill or injure these swans. The little boys in the country take the liberty of robbing them of their eggs, which occasions between them and the swans very sharp conflicts, often dangerous to the assailants. I was an eye-witness to a combat of this sort. One of the champions, whom a swan had taken by the nose, left part of it behind him.

The establishment, and the manner of levying taxes, belong exclusively to the lower-house; but

but this is at present done in France by the registering of declarations and pecuniary edicts in the sovereign courts.

All the objects of the revenue being in the department of the house of commons, it has in reality the absolute command of all branches of the government; it is the arsenal of the forces of England, and, at the same time, the most powerful counterpoise to the royal authority, especially since kings are no longer allowed to discontinue the meeting of parliament. But it will be objected, that a counterpoise of this force must naturally over-balance any opposite power, and England must be continually exposed, by the very nature of its government, to fall again into the anarchy by means of which the famous Cromwell established his authority. This critical situation is the object of Mr. Hume's considerations in the ninth of his Political Essays: "a government, says he, constituted in such a manner, that one of the bodies amongst which the authority is distributed, might, whenever it thought proper, dispossess the other, and seize the whole power of the constitution, would be a downright monster in the eye of legislators and politicians. And yet, adds he, such is the government of England." He makes answer: that the interest of the whole house of commons is checked and counteracted by that of each individual: that in this body a part of its members is always honest, disinterested, and all its views concentrated in the good of the state; in fine, that the king, by means of the favours in his disposal, can always contrive to make the majority of the house conspire with his views, by gaining them over to vote, not contrary, but according to their conscience.

The

The whole department of the revenue belongs in so exclusive a manner to the lower-house, that, in order to render the bill for a national militia * fit to be laid before the house of lords, nothing was farther mentioned therein, but the raising of that militia, and the means of effecting it. The arms, the pay, and the cloathing, &c. were the objects of a particular bill, which, like all others of that nature being agreed to by the commons, passed without examination in the upper-house, which can make no alteration in it.

My intention was to give here the result of the instructions, and the memorials which I have procured concerning the ancient and present state of the finances of England. Judge Blackstone's Commentary upon the English laws had likewise furnished me with excellent lights concerning this subject; but Mr. Grenville's memorial concerning the administration of the finances since the last peace, translated into French, and published since my return, with a very circumstantial introduction, unites the several objects interesting to the curiosity of a foreigner, who will be astonished to find the prodigious height to which the national debt is arrived. With what terror must this astonishment be mixed in the eye of Englishmen, who have read in the Political Arithmetic, published by Davenant, in 1699: that England would be threatened with the most dreadful poverty, if five or six millions sterling were ever levied there in a year?

At the article of imposts, Mr. Grenville's memorial does not make mention of a tax of fourteen pence English laid during my residence

* In 1757.

in London upon every beaver's skin sold to foreigners. The product of this impost makes no part of the revenue of the state: it is left to the hatters of London for the encouragement of their trade; and the prices of their goods being lowered in proportion to this benefit, determined the Spaniards to provide themselves at London with beaver for Cadiz and America. England had furnished Spain with this commodity till the war concerning the succession: France had obtained that trade at the above period, and it continued in her possession according to the prediction of the Abbé Dubos*.

The national debt with which England is at present overloaded, appears to all Europe, even to the English themselves, a subject capable of occasioning the most serious reflexions.

Till about the close of the last century, England, as well as all the other states of Europe, had regulated its expences by its annual revenue, and supplied its extraordinary expences by the establishment of occasional subsidies. This system had been set on foot by the English Solomon Henry VII. who laid it down as his first maxim, that a poor king is only half a sovereign†. His whole conduct, which had been regulated by this maxim, was afterwards imitated by queen Elizabeth. In France, Lewis XII. and Henry IV. governed upon the same principles; and be-

* Interests of England, 2 Edit. p. 46.

† See his life by the lord chancellor Bacon, who informs us, that, at the death of that prince, there were found in his coffers 60,000 marks in coined silver, or in gold and silver plate; he had, besides, a prodigious quantity of moveables, and herds of cattle without number.

ing like Henry VII. reproached with avarice by their subjects, they, without doubt, said with Lewis XII. "I had rather see them laugh at my œconomy, than weep at my prodigality †."

Mr. Hume, in the fifth of his Political Essays maintains, that these vast sums amassed in the coffers of the sovereign, are of as much weight in the balance of power, as bank-bills, and other fugitive effects are the reverse. He does not even apprehend that any inconveniency could result to a state, whose sovereign should embrace this system. "Nor is it probable, says he, that the diminution of circulation was ever sensibly felt by the people, or ever did them any prejudice. The sinking of the prices of all commodities would immediately replace it, by giving England the advantage in its commerce with all the neighbouring kingdoms." And upon this occasion, he cites a multitude of examples, both ancient and modern; examples obliterated by that of the formidable power, which we have seen in our days start up in Germany, without any other basis than a great treasure hoarded up in a country far from opulent, by means of great order and œconomy. Before the management of the finances was reduced to a system the kings of France had no external resources, but in the alteration of the coin, and the confiscations, which fell alternately upon the Jews, and upon those who had the direction or disposal of the public revenue. Since the reign of Lewis XI. the sale of places, and the creation of new offices, had supplied money to bear the expences of the ill-concerted wars of Lewis XII. and Francis I. That resource became insufficient, since the

† Remarkable sayings of Gilles Corroset.

introduction of financiers, by means of the Italians, who followed Catharine of Medici into France: they doubled the old taxes, created new duties, and took advantage of the eagerness of the French for places and dignities: after a reign of twelve years, Henry II. left the state involved in a debt of forty millions of livres, and that debt had an influence upon the succeeding revolutions, which has escaped all our historians. Henry IV. and his ministry had again put the state upon its former footing. But the kingdom having had the misfortune in the reign of Lewis XIII. to fall into the same hands, which ruined it under Henry II. supported itself by the strength of its constitution *, till the establishment of government loans invented as the last shift in the worst of times by the comptrollers general Pontchartrain and Chamillart.

This system differed only in its form from the ancient creations of offices, which were nothing else but loans at the expence of the state; the more destructive, as by bringing an incumbrance on future kings, to use the expression of Pasquier †, they deprived the state of new tenants: persons who have had a patent, and are paid to work, but lead an inactive life, resemble those masons mentioned by Æsop, who being supported by eagles in the middle region of the air, called out from thence for stones and mortar.

* To Supply money for the expence of the wars, festivals, buildings, &c. of Lewis XIV. Mr. Colbert raised such sums, by the usual means, as would have been sufficient not only to pay off the national debt, but to attain the end which Henry IV. proposed to himself.

† Inquiries, lib. v. c. 27.

The

The system of public loans had been long since established by the Spaniards in their Italian dominions. The greatest part of the crown demesnes of the Two Sicilies, originally alienated for several loans, is still in the hands of companies, which represent the first lenders. The Spaniards by thus playing with the most certain funds, and by putting that kingdom into the situation of an estate at nurse, had succeeded so far as to secure the fidelity and attachment of the creditors of the state, that is the greatest and most opulent part of the Neapolitans and Sicilians, from a principle of interest which might be affected by a revolution of government.

The new system of loans, whilst it sports with the avidity of lenders, leaves them only fictitious funds, upon which they have neither right nor claim. This system scarce established in France was caught at by king William, whom it delivered from part of the shackles with which the English had bound him; and the nation blinded by its ambitious designs and by the facility of carrying them into execution, with the utmost eagerness adopted the same plan as France. If this kingdom, after having set them so dangerous an example, had been able to retrieve itself, without breaking in upon its future revenue, what an advantage would it not have had over England! "It is certain, says lord Bolingbroke, that the state which first extricates itself out of a distress, common to us and our neighbours, will give the law to whoever it thinks proper."

After the reign of Charles II. which, if not brilliant, was at least very happy, that kingdom owed nothing, and the state enjoyed a clear revenue of thirty millions of livres, at present fifty, all the charges of collecting deducted: this re-

venue did not make the twentieth part of the general revenue of the kingdom. The system of loans being established at the peace of Ryswick, the state found itself loaded with a debt of two hundred and thirty millions of livres, equal to three hundred millions of the present money, and its revenue was diminished to such a degree that the parliament of 1695 was obliged to assign king William a new fund for the civil list.

By a succession of wars, the national debt has risen to that enormous excess, in which we behold it at present. At the death of queen Anne, that debt had the same influence upon the fate of the Stuarts, that the forty millions of livres which Henry II. died indebted, had upon that of his unfortunate posterity. The projects of queen Anne to recal the pretender, were * defeated

* The Abbé Dubos had been unlucky in predicting this very consequence in his *Interests of England ill understood*, published in 1703, if we consider the views of the ministry of Versailles. He did the pretender as little service in the same work, in proving that the throne would be for ever inaccessible to him, if the union between Scotland and England should be concluded before the death of queen Anne. The above work, printed at the royal printing-house at Paris (tho' said to be printed at Amsterdam) and spread thro' the three kingdoms by the Jacobite party, excited alarms, the more real, as the pretender's intentions with regard to wiping off the national debt, were explained by France herself, who was to place him on the throne: these alarms determined the union of the two kingdoms. King William had attempted it in vain; it was effected in 1706, by queen Anne, who was very far from having the same inveteracy against the Stuarts as her predecessor but this union was not so much the work of that prince,

feated by the apprehension of the creditors of the state, that is the whole nation, lest the pretender ascending the throne, and asserting his rights to liquidate the debts of the crown, should demolish the funds, as the work of usurpation, after the example of Charles II. who annulled all the acts of the protector.

The revolutions, which the system of loans is likely to introduce all over in Europe, are unparalleled in the history of ancient nations, to whom this system was utterly unknown.

One of the most powerful empires of antiquity, that of the Persians, would have rejected it as diametrically opposite to that happy principle, on which its public virtue was chiefly founded. In consequence of their abhorrence of injustice and lying, which the people were inspired with by the laws, by education, by the example of the sovereign and the magistrates, "they thought nothing more infamous than to live by borrowing: such a life appeared to them the more disgraceful as it is a source of mean actions*."

This system was equally unknown to the ancient republics of Greece. We have a proof of this with regard to that of Athens, in Xenophon's treatise upon the resources † of that state almost exhausted by its ambitious wars. Xenophon proposes to that commonwealth to avail herself

cess, as of the party, which, in 1701, had limited the right of succession to the Protestant line. This innocent mistake of the Abbé Dubos's proves the danger of indirect manifestoes, and of every polemical writing between hostile powers.

* Herodotus, lib. v. c. 138.

† Πόροι, which the translators have rendered by *vedigal*.

of the tranquillity which it had regained by the peace of Antalcides, so as to revive her commerce and her navy, to increase the number of her people, and to restore the value of the silver mines of Attica. These enterprises required extraordinary funds; to raise which, Xenophon can suggest no other expedient but to borrow money upon the interest of two hundred per cent. the lender, say he, when he gives one mine, will gain two. Now notwithstanding the extravagance of this interest, and the security of the fund boasted of by Xenophon, this expedient was so wide of all received ideas, that he afterwards proposes to immortalize by public inscriptions, the names of those, who, lending their money upon such interest, shall deserve to be ranked in the class of benefactors to their country. ἐνέχεται *: which, continues he, will cause foreigners, princes, and great men, to promote our designs. This project did not take: the Athenians and the Grecian commonwealths thought, no doubt, like Mr. Hume, that “in free states, the practice of contracting debts, and mortgaging the revenues of the nation, is a source of corruption which must bring on their ruin.” Another English author of great reputation, ascribes to France every advantage in this respect. Absolute princes, says he, may contract debts; but they have it in their power to declare themselves bankrupts whenever they think proper; whereas in free states the leading men in the government being always creditors of the nation, it is impossible they should have recourse

* The same view seems in France to have directed the establishment of those dignities and places which confer nobility, ἐνέχεται: what could not take at Athens, has succeeded at Paris.

to this remedy, which, though it must be acknowledged to be cruel, is notwithstanding oftentimes necessary †."

The Roman History presents us with an extraordinary example of money borrowed by the public, in the most dreadful emergency.

After the battle of Cannæ, the Scipios had just revived the glory of the Roman name in Spain: but their army was in want of every thing, and the country so exhausted, as to afford no resource. They thereupon wrote to the senate, who, being in great distress themselves, thought of having recourse to public credit as their last shift *. They proposed to the contractors and sutlers that supplied the army of Spain with provisions to assist the commonwealth which had enriched them, by advancing the money necessary for carrying on that enterprize, which should be reimbursed them, without interest §, out of the first money that came into the treasury. The proposal was accepted upon certain conditions, and Livy exclaims upon the occasion: *Sic privatâ pecuniâ respublica administrata est: conducta omnia magno animo, summâ fide fuerunt præbita: hi mores, eaque caritas patriæ, per omnes ordines velut tenorê uno, pertingebat †.*

Though this good office was reduced to simply advancing money by the contractors, who, doubtless regulated their offers upon this condition of the treaty, and though it has no connexi-

† Political Essay upon liberty and despotism.

* *Nisi fide stare respublica, opibus non staturam.*

"If the commonwealth was not supported by credit, its wealth could not support it.

§ *Tempus commodarent*, "should lend for a time."

† Tit. Liv. xxiii. c. 48. In all printed books it is read *pertinebat*.

on with those public loans which constitute the national debts that I am here examining, we may reasonably, however, infer, both from the fact and from the warmth, with which Livy relates it, that every notion of public loan was altogether foreign to the spirit of the Romans with regard to the revenue; and from thence we may conclude also, that Rome had been governed by the same spirit, amidst all the revolutions which she had undergone, till the time when Livy wrote his history: a spirit that had prepared her for conquest, and ensured her a series of wonderful successes, which could have never happened to a government deeply encumbered with debt.

The Roman questors were used to draw only upon real and effective funds, considered as the nerves of the commonwealth*: these questors compared to the ministers who have the direction of the national debt in England, will be considered only as those ordinary sort of men, who could not so much as stir those enormous stones, which, in the hands of the heroes of the Iliad were no more than bottoms of yarn†

Perhaps the Carthaginians, more inured to accounts and revenue-matters than the Romans, might have availed themselves of public credit in the most difficult conjunctures of their wars with Rome; but history leaves us in the dark

* *Nervos esse reipublicæ semper duximus.* “We always considered them as the nerves of the commonwealth.” Cic. pro Leg. Maniliâ.

† Εἰσὴκει πρόσθεν, πρυμνός, παχύς, αὐτὰρ ὕπερθεν
 Ὀξύς ἔην· τον δ' ἔκε δ' ὕανέρε δῆμα ἀρίστω
 Ρηϊδίως ἐπ' ἄμαξαν ἀπ' ἔδεσθ' ὀχλισσειαν,
 Οἷοι νῦν βροτοὶ εἰς' ὃ δέ μιν ῥέα πάλλε καὶ οἷος.
 Τὸν οἱ ἐλαφρόν ἔθηκε κρόνε παῖς ἀγκυλομήτεω
 Ὡς δ' ὅτε ποιημὴν ῥεῖα φέρει πόκον ἄρσεν' οἷος.

Iliad, lib. 12. v. 446.

with

with regard to this fact, which, to judge by the event, would make against the people who should have recourse to that destructive expedient.

The immensity of the public debt is the fruit of that opulence to which England has risen by its commerce and its navy. In the Estimate of the Manners of England, written about the year 1757, and translated into French in 1758, Dr. Brown prophesied, that England, and its American colonies, would, at the next war, be swallowed up by France; because, says he, the French are more religious, more united, more warlike, more attached to their principles, and less opulent than the English; and he considered this opulence as the principal cause of the disparity upon which he founded his prediction. It would have been more just, if, viewing the wealth of the English as the cause of the national debt, he had in that light given it as the principle, if not of a foreign invasion, at least of an intestine revolution, which, in the very bosom of peace, might arise from the necessity of paying the arrears of the public debt; of continuing the taxes and even of increasing them, if they were desirous of sinking any part of the capital, from the necessity, in fine, of extending these taxes to that part of the subjects of the British crown, whom in prudence it should treat as the Romans did the provinces allied to their commonwealth: *apud Romanos jus valet imperii, cætera transmittuntur.*

Whatever may be the consequence of the increase of the national debt, it is what the English must expect under the present government; it was the surest and best means by which a prince, reigning upon a precarious title, could bind the nation to his person and his family: he thereby acquired sure pledges of the fidelity of his new

subjects. “A new government established contrary to the ancient principles, and to the present engagements of many, could not, says lord Bolingbroke in his Reflexions upon the the English Government, be solidly and effectually established, except by inducing private persons to engage in its preservation, so as to lend their money to the public upon the security of the new establishment.”

I shall not enlarge any farther upon this important subject: it is sufficient for me to have thrown out some hints which may be a farther illustration of what has been said concerning the national debt, by those Frenchmen who have given us the elements of commerce, the causes and progress of the debts of England, the abuse of national credit, &c.

The English house of commons has nothing striking either in the place of meeting, or in the manner of its sitting.

The place of meeting resembles an ancient chapel; it is of an oblong form, built in the same taste, and with the same proportions as the church of St. Yves, in St. James's-street at Paris. At the farther end of the saloon, there is a large glass casement, which, as in all buildings of this sort, lets in too great a glare so as to dazzle the eyes of the assembly, their faces being turned towards the speaker's chair just under the casement. The majesty of the people of England but ill displays itself in this place, though it be its residence, its seat, its throne; yet to those who have seen the spacious saloon where the senates of Venice and Genoa hold their assemblies, it has no better appearance than a rustic grotto.

The

The speaker's chair is only of deal, like the chairs intended for the senators, in the hall of the great council, or *pregadi*, of Venice.

The speaker sits there as long as the house does business; this is shewn by a great mace of silver gilt, surmounted with a crown, and placed upon a table before the speaker, when the commons enter upon any debate. If they happen to form a committee, the mace is taken up by the serjeant at arms, and hung upon a hook, where it continues till the house proceeds again to business. Every half hour, or every quarter, the mace is removed out of its place. The speaker changes his seat likewise; he keeps his chair only whilst the house is upon business; if it forms a committee, he quits the chair, and sits down upon the next bench.

I have already observed in the article of Declamation, that the meetings of this house are very noisy and tumultuous. Every member talks to the person next him, and seems scarce to give any attention to what is said at the bar, except when the friends of the question command silence and attention by crying *Aye, aye*. In the midst of this continued noise, the speaker proclaims with a loud voice the subject of debate, and his voice resounds through the room: it issues from a body of the largest size, wrapt up in a black gown, and a wig of an enormous magnitude: I am very much mistaken if this speaker is not the same person who in the print which I have mentioned in the preceding volume*, is represented in profile next to the lord chief justice reading with spectacles.

* This print, designed and engraved by Hogarth, is dated 1758.

Whilst the speaker keeps the chair, he receives a low bow from all those that enter by the principal door, opposite to which he is seated. He returns the civility to each person by taking off a broad brim hat, without interrupting his business whether he is writing or reading.

Mr. Onslow, after having held this important place for thirty years together, resigned it in 1761, and was gratified with a pension of 3000l. a year. The person who fills this post is nominated by the house of commons, and the king must approve the choice. The speaker has a coach enriched with paintings and gilded figures: the seat behind this carriage is decorated with a sort of trophies, which, like the paintings upon the body of it, are emblematical of the majesty of the people of England, represented by the speaker of the house of commons.

This majesty discovers itself chiefly in the manner in which messages are brought to the house from the king, being delivered by two masters in chancery, or, in matters of great importance, by two of the judges. As soon as they have announced their coming, to the commons, the serjeant at arms goes to take up the mace off the table, and advances to the door, which immediately flies open. There the king's messengers make two low bows, which they repeat in the middle of the room. When they come to the table, they make bows still more profound, and deliver their message by laying a paper upon the table. Then they retire with their faces still towards the speaker, accompanied by the serjeant at arms, with the same ceremony of the bows and the mace.

This ceremony, of which I was an eye-witness, when the king sent the regency bill to the house of commons, seemed scarce to attract the least attention from the house, which did not so much

much as honour it with its silence, all the members continuing to talk, and with their hats on.

The five hundred and fifty-eight representatives who form the house, are not obliged to appear in the same dress. Each of them wears whatever cloaths and whatever sort of a wig he thinks proper. Some who appeared in every respect like French *petit maitres*, drew my attention; and I was given to understand that their dress was the livery of the court and its party, called by those in the opposition the *party of corruption*. It was so even in the time of Addison, who, in his *Spectator*, represents this habit, together with an easy address and smiling countenance, as the characteristical mark of that soft luxurious turn of mind, to which the court owes its numerous adherents.

By the rule of contraries, a different air discovers republican souls; so that the court may say with Cæsar, I do not distrust those smooth, sleek men, who have their hair so well dressed and are in such good case; but rather those uncouth fellows, who neglect their outward appearance*. I was struck with one of these republican souls, lodged in a fat, short carcase, covered with an old claret-coloured coat, of stuff of the common sort, who wore his own hair, of a dark colour, cut round, without any powder, and rested his chin upon the head of a large cane. I have often seen a man, thus simply dressed, harangue with hands as black as those of a hatter. He spoke in opposition to Mr. George Grenville, first lord of the treasury, who was there in person, debating with all that patience which in England is the chief virtue of a minister.

* Plut. d'Amyot, Life of Julius Cæsar.

All the members of the house of commons are not orators by profession: the business of speaking is left to a few party leaders, who generally keep possession of the bar: the common run of members speak only occasionally, like the Quakers, that is to say, when the spirit moves, or they think it moves them: in other respects the most silent have by their votes the same weight as the most eloquent in the resolutions of the house. I was shewn one of these silent members, who during twenty years had never uttered a single sentence in the house. He one day however advanced towards the bar, and all the members listening to him with the utmost attention, he represented to them, That one of the panes of the window under which he sat had been broken three days before; and that he was in danger of catching cold, if the house did not immediately take the thing into serious consideration.

The sons of noblemen, even of the first order, sit only in the house of commons, where they find themselves confounded with the representatives of the people. From this mixture of the people with the chief personages of the nation and the king's ministers: from the right which every Englishman has to elect and be elected, to rise even to the dignity of peerage, either by distinguished services, or by court interest; from the exclusive privilege of weighing, discussing, and deciding the dearest interests of the nation; from all these, I say, arises that national pride so conspicuous in the behaviour, the writings, and the schemes of the English. This pride is common to all nations: the French in general, the Parisians, and even the very Gascons

Gascons consider themselves as the favourite sons of nature ; and fondly imagining that no other age or country is able to produce their equals, they only laugh at those who would seem to doubt of their superiority. The English, less tractable, appeal to the house of commons, from every judgment which would dare to call their superiority in question.



ALP. H.

A P P E N D I X.

N U M B E R I.

TH E account given by our author, in the first volume, p. 51, of the riot in Drury-lane play-house, as it stands in the original, gave great and just offence to Mr. Garrick, and also occasioned an article in the Journal Encyclopedique, in which M. Grosley was called upon to retract his error. He had indeed received a wrong account of that transaction. The mistake has been rectified in the translation; but as the author has published a recantation of his error, in the Journal Encyclopedique, a recantation which does great honour to our inimitable Roscius, as well as to M. Grosley, it has been thought proper to give the letter at full length, for the satisfaction of the curious reader.

JOURNAL

JOURNAL ENCYCLOP. O&A. 1770.

Gentlemen,

Troyes, October 6, 1770.

I would myself have been Mr. Garrick's champion against any man who should dare to charge him with an action derogatory to his honour: my sentiments with respect to him are known to you by the warmth with which I have spoken of the monuments that he has erected to Shakespeare, by the particular account which I from thence took occasion to give of his personal qualities, and finally by my regret for not having seen him upon the stage, and not having been able to join my applauses to those which are bestowed upon him by a nation that loves as much as it esteems him.

Since such are my sentiments with respect to him, I acknowledge myself blameable for having, upon a false information, imputed an action to him that impeaches his honour, which he should be the more jealous of, as his rank in England can be compared only to that of those persons who at Athens at once acted the first parts upon the stage, in the senate, and in the most important embassies *. I said that after an outrageous riot at Drury-lane play-house it was insisted that he should ask pardon upon his knees, and that he had done so.

I was sensible of the violence, not to say the cruelty, of such a procedure; I should have been aware of the impossibility of the fact as

* Thucydides and Plutarch.

well as of its inconsistency with Mr. Garrick's eminence and figure in life, and have rejected the testimony upon which I related it. But it was an additional circumstance to those motives of patience and resolution which I stood in need of to enable me to support the abuse, the grimaces, and the menacing gestures which I had every day to bear from the populace of London: collecting therefore all the examples which I had related of the insolence of that rabble, and adding to these that shewn to Mr. Garrick, "if, said I, this rabble is possessed of a privilege to behave in such a manner to its king, to a person of marshal Saxe's quality, to such a man as M. de la Condamine, and even to Mr. Garrick, I should thank Heaven that it has been so favourable to me."

I cannot at present have the least doubt of the error I committed in adopting a report, the falsehood whereof insinuated in the anonymous letter, which you have joined to your extract from London, is confirmed in the most authentic manner by letters from England, and by a letter with which Mr. Garrick himself has lately honoured me, dated the 24th of last September.

He therein expresses his surprise at that article; and then gives a circumstantial account of the facts, which he reduces, with regard to himself, to his having retired as soon as ever the riot had interrupted the play, and having left the field to the assailants. He adds, that the discontinuing to take any thing short of the full price, which had caused the disturbance, was not intended to be erected into a general law for the future, but merely to indemnify

indemnify the proprietors and managers, who had revived an old play with additions, and very expensive decorations: that the supporters of the scutcheon belonging to the king's box were not thrown upon the stage till after the curtain was dopt: and that the disturbance at the theatre in the Hay-market, which I give an account of under the same article, was caused not by an Italian, but by a person of the first rank, who took a pleasure in such jokes, and had carried that as far as a joke could be carried.

These errors and others which I may probably have committed, either through wrong information given me by the English gentlemen of whom I enquired, or who might be misunderstood by me, will be corrected by the observations which I expect from Dr. Nugent. Whilst I returned thanks to this learned person for the honour he did my *Swedish Gentlemen* in publishing an English translation of their *Travels through Italy**, which, I have been assured is done in the most masterly manner, I requested him to submit my *Observations on England* to the examination of a society, composed of himself and his friends, which should take cognisance of the errors that may have crept into my work, either from wrong information, or misunderstanding, and not through the motive ascribed to me by the anonymous letter of leaving succeeding writers nothing farther to say

* Mr. Grosley's *New Observations on Italy and its Inhabitants*, by Two Swedish Gentlemen, were published in London, 1769. Two Vols. 8vo.

with regard to England. To imagine that an author whose work is confined to three little volumes, should have conceived a thought so extravagant is *homines ex stultis insanos facere*. Terent.

The use which I propose to make of Dr. Nugent's observations, and of all those which shall be communicated to me, with a friendly intention, will make Mr. Garrick the reparation which I owe him: I would even go so far as to ask his pardon upon my knees, if such an action would not bear too strong a resemblance to one of the most noted scenes upon our French stage, a scene which it would neither become Mr. Garrick nor myself to act in.

The manner in which M. de la Condamine has behaved to me with regard to the answer to the letter which you have likewise joined to the extract from the Observations on England, assures me of the favourable reception which this explanation will meet with from Mr. Garrick. With respect to this affair between M. de la Condamine, whom I had not the honour of being acquainted with, and myself, I may say with Cherea in Terence:

*Sæpè ex istiusmodi re quâpiam &
Ex malo principio, magna familiaritas
Conflata est.*

A P P E N D I X.

N U M B E R II.

THE act of navigation, mentioned pag. 54, of this volume, is of such importance, that I thought it incumbent upon me to give a copy of it, such as the Abbé Du Bos has inserted at the sequel of the interests of England, retrenching the tautologies peculiar to the English acts of parliament. This act comprehends several laws made by Cromwell for the encouragement of navigation. Charles II. whilst he suppressed the laws of the usurper, had the prudence to retain such as tended to the welfare of the state, giving them the sanction of his name. In this respect he acted in the same manner as the French legislature had done with regard to the council of Trent: without admitting the council, they ordered such decisions of that assembly as they judged most suited to the situation and the necessities of the kingdom, to be inserted among the ordonnances of Blois.

A C T

A C T I.

For Encouraging and promoting MARATIME AFFAIRS and NAVIGATION, passed in Parliament on Thursday September, 23, 1660.

IT being the will of the Lord, out of his particular kindness to England, that its wealth, security, and strength, should consist in its navy, the king, the lords, and the commons assembled in parliament, have ordained that, for the promotion of maratime affairs and navigation, the following regulations should be observed throughout the kingdom.

Beginning from the 1st of December 1660, no merchandise or commodities shall be imported or exported in all the colonies belonging to or which shall belong to his majesty, or to his successors in Asia, Africa, and America, except in vessels built in countries subject to the English government, or which shall really and truly belong to his majesty's subjects, and in both sorts the captain and at least three-fourths of the sailors shall be English. Those who act otherwise shall be punished by the seizure and confiscation of their vessels and merchandise, one third of which shall be forfeited to the king, another to the governor of the colony where the seizure is made, and another to the judges and informers. All admirals and officers who have his majesty's commission, are empowered to seize the vessels which act contrary to these orders wherever they meet them, and the said vessels shall be looked upon as prizes taken from the enemy, and shall be

be shared as such. One moiety of what they are worth shall go to the king, and the other moiety shall be divided between the captain and crew belonging to the vessel which shall make the seizure.

Be it farther enacted, that no person born out of his majesty's dominions and who is not naturalized, shall be able to carry on, after the 1st of February, 1661, any commerce either for himself or others in the said colonies, under the penalties hereafter mentioned. The governors of the said colonies shall be obliged from henceforward to make affidavit publicly, to cause the laws herein mentioned to be put in force, and they shall be deprived of their places whenever it is proved that they have any way neglected causing them to be observed.

It is farther enacted, that no commodities of Asiatic or American growth can be imported into any countries or lands subject to his majesty, except in such vessels as have been above specified upon penalty of seizure and confiscation to those who disobey.

It is farther enacted, that the goods and commodities of Europe shall not be imported into England in any other vessels but those which sail from the ports of countries of which those commodities are the manufactures and product, under the penalties above specified.

It is likewise farther enacted, that fish of all sorts, and even the oils and bones of whales which have not been fished for by English ships, and which are imported into England, shall pay double duty at the king's custom-house.

All vessels are moreover forbidden but such as are English, and conform to the rules above
laid

laid down, to take in a cargo of any sort in any port, either of England or Ireland to carry it to any other part of his majesty's dominions, the trade which is called trade from port to port, being free only to English vessels, and that under the same penalties of seizure and confiscation.

It is farther enacted, that all vessels which shall enjoy all abatements made, or hereafter to be made, upon custom-house duties, shall be vessels built in England, or those which being built abroad are the property of Englishmen, both the one and the other having at least the captain and three fourths of the sailors English. If it should happen that at the arrival of certain vessels the foreign sailors should be above one fourth of the crew, it must be proved that diseases or the enemy have occasioned this alteration, and that by the affidavit of the captain, and of the chief officers on board the vessel.

It is farther enacted, that no goods or commodities of the growth or manufacture of Muscovy, nor masts or other wood, foreign salt, pitch, tar, rosin, hemp, cotton, raisins, figs, prunes, olive oils, all sorts of corn and grain, sugar, ashes for making soap, wines, vinegars, brandies, shall not, after the sixth of April, be imported into England, except in the vessels above specified. This is likewise enacted with regard to Corinth raisins and other commodities belonging to the dominions of the grand signor, after the 11th of September 1661. We except only such foreign vessels as are built in countries and places of which these commodities are the product, and where such merchandise is manufactured, or where it is customary to ship it, but still upon condition that the
master

master and three-fourths of the sailors shall be natives of the country from whence the vessel comes, otherwise it shall be subject to seizure and confiscation.

It is farther enacted, that to prevent the false declarations made by the English when they affirm goods belonging to foreigners to be their property, all the French and German wines which shall be imported into the dominions of his majesty after the 30th of October 1660, in any other but English vessels, as specified above, shall pay the king's duties, and those of the towns and ports where such wines shall be imported as commodities belonging to foreigners; and all the woods, foreign salts, pitch, tar, rosin, hemp, linens, Spanish and Port wines, and other commodities, specified above, which shall be imported into England after the 10th of April 1661, in any but English ships, the Corinth raisins and other commodities of the growth and manufacture of the dominions of the grand signor, after the 10th of September 1661, shall be considered as belonging to foreigners, and shall pay duty as such.

And to prevent all those frauds which might be made use of in purchasing and disguising foreign ships, it is enacted, that after the 10th of April 1661, no foreign built vessel shall be considered as English, nor shall enjoy the privileges granted to such, till such times as the proprietors of said vessels have made it appear to the custom-house officers, that the said vessels are theirs in fact, at the same time telling the sum of money they paid for them, who they bought them of, as likewise the time and place where the purchase was made, who are their owners if they have any; which owners shall be obliged

obliged to appear before the director of the custom-house, and all of them shall, at the same time, make affidavit that foreigners have no part nor share with them either directly or indirectly; after which the custom-house officer shall give them a certificate, by means of which said vessels shall be reputed English built. There shall be made a duplicate of said certificates, and such of said directors as shall be in England shall send the duplicate to London, and those who are in Ireland to Dublin, that they may there be well and faithfully registered: all such officers as shall act contrary to the above regulations after the 10th of April 1661, shall lose their places and their governments, as likewise those who shall suffer foreign vessels to carry on illicit trade.

English vessels as above specified shall, notwithstanding, be allowed to import into all his majesty's dominions the commodities and merchandise of the Levant, though they have not loaded their vessels with them in the places where they grow or are manufactured, when the said vessels shall have taken them on board in any other part of the Mediterranean beyond the straits of Gibraltar.

The same indulgence is likewise granted with regard to the goods and commodities of the East-Indies, which have been taken on board in a port, situated beyond the Cape of Good Hope.

The said vessels shall likewise be permitted to load themselves in Spain with merchandise from the Canary Islands and other Spanish colonies, and in Portugal with those of the Azores and other colonies of Portugal.

The present act shall not extend to goods or commodities which shall appear to have been taken from the enemies of England without either collusion or fraud, by English ships as specified above, and which are commissioned by his majesty or his successors.

Neither shall said act extend to vessels built in Scotland, three fourths of the crew of which shall be Scotch, which shall import into England fish of their own fishing, corn or Scotch salt, and the said merchandise shall not pay the custom-house duties as being the property of foreigners. The oil called Russian oil which shall be imported from Scotland by English vessels, as above specified, shall enjoy the same advantages.

It is farther enacted, that every French vessel which shall, after the 20th of October 1660, touch at any part of England or Ireland whatever, to take on board or to set on shore passengers or merchandise, shall pay to the king's receivers five shillings per ton, and the freight of the said vessel shall be estimated by the king's officer. The said French vessels shall not come out of the port or harbour till they have payed the said duty, which shall continue as long as the impost of fifty sols per ton shall be levied in France-upon the ships belonging to his majesty's subjects, and even three months after its suppression.

It is farther enacted, that after the 1st of April 1661, sugars, tobacco and all other commodities which are the products of our colonies, shall not be imported into Europe, except in places subject to his majesty, where the said commodities shall be landed under the penalty of seizure and confiscation. Such vessels as shall set out from his majesty's ports in Europe, for the colonies in Asia,

Asia, Africa, and America, shall be obliged to give a thousand pounds sterling security at the place from which they set sail, if they do not exceed a hundred tuns; and of two thousand pounds sterling if the vessel is of a more considerable burthen; that they will carry their cargoes to one of the ports of his majesty's dominions. The said vessels when they set sail from the colonies of Europe, shall be obliged to make a declaration containing the quality and quantity of their cargoe before the governor, as likewise to unload in England; and the governors, after the 1st of January 1661, shall be obliged to send copies of these declarations to the commissioners of the custom-house of London. The said governors shall not be able to employ any vessel till it has proved itself to be English and conformed to the regulations, as likewise till it has produced its certificates made out by his majesty's officers.

A P P E N D I X.

N U M B E R III.

Researches relative to the Claims of the Ancient Metropolis upon their Colonies, to serve as a Supplement to what has been said upon the Subject in the first Volume, p. 146.

UPON this important subject consult Bodin's Method of Studying History, p. 580, and Mr. Bougainville's Dissertation, to which the prize was adjudged by the Royal Academy of Inscriptions and Belles Letters, in the year 1745.

The following facts escaped the inquiries of these two writers.

Phœnices—Hipponem, Adrumetum, Leptin, Carthaginem &c. in orâ Africæ condidère; æque brevi multum crevère. Pars originibus suis præsidio, aliæ decori fuere *.

“ The Phœnicians built Hippo, Adrumetum, Leptis, Carthage, &c. upon the coast of Africa; and these in a short time became great cities. Some of them were a defence to those to whom they owed their origin, others were an honour to them.”

* Sallust. Bell. Jugurth.

The Lacedæmonians exacted no contributions from their allies. They contented themselves with establishing in the cities of the Dorian league an oligarchy, as that form of government had a greater connexion with their administration than a democracy: but the Athenians having seized upon the ships of their allies, excepting those of Chios and Lesbos, compelled them all to contribute.

The designs of the Corinthians upon Epidamnus, were the first sparks that kindled the Peloponnesian war. That town, which was a colony from Corcyra, had been founded by Phalius of Corinth, who was by the Corcyreans excited to quit their metropolis: he had led to this colony not only the Corcyreans but likewise Corinthians and a great number of Dorians *.

The deputies of Corcyra soliciting at Athens the assistance of the republic in favour of Epidamnus, and against the Corinthians, said to the people: “The Corinthians will object that it is not just to undertake the defence of a colony against its metropolis: but a colony is no longer bound to pay any duty to its metropolis, than whilst it behaves to it as a mother, and not as a step-mother: it did not quit its native country to be its slave, but to share as its partner all its rights and privileges †.”

The Lacedæmonians being tired of the supreme command, on account of the intrigues of Pausanias, it fell to the Athenians who exacted from the Greeks money and vessels, upon

* Thucydides, l. i. n. 2.

† Οὐ γὰρ ἐπὶ τῷ δέλοι, ἀλλ’ ἐπὶ τῷ ὅμοιοι εἶναϊ ἐκπέμπονται. “For they are not sent away to be slaves, but to be equals.”

pretext of carrying on war against the Persians. They appointed receivers, and the first levy produced 460 Attic talents, which were deposited at Delos §.

Several islands being soon tired of these contributions rigorously exacted, refused to pay: Cymon the son of Militiades compelled them to pay by force of arms. The rest intimidated, by these examples, furnished the contributions, and with money bought themselves off from contributing vessels *.

Pericles afterwards disposed like a sovereign of the deposit of Delos †. Greece and even the Athenian colonies shook of the yoke of that republic, and joined with the Lacedæmonians ‡.

Ten thousand Greeks, who had followed Xenophon to the assistance of young Cyrus, having returned in a march of 122 days from the heart of Persia to the shores of the Euxine sea, found at Trebisonde, a Greek colony, all the kind treatment which they could expect from countrymen. They had not the same reason to be pleased with the inhabitants of Cotyore, under the walls of which town they passed forty-five days: after having seized upon the gates of that city, they forcibly took lodgings for their sick. The governor of the city at that time was a magistrate of Synope, the metropolis which had peopled Cotyore, Cerasus, and Trebisonde. In the complaints made by a deputy of Synope

§ Ibid. n. 5.

* Ibid. n. 6.

† Ibid. l. 2. n. 24.

‡ See the Panegyrick and the Panathenaic of Isocrates.

to Xenophon upon the behaviour of his troops at Cotyore, he gives him to understand that those three cities payed certain dues to their metropolis, not in quality of colonies but on account of the territories which Synope had conquered from the barbarians, and which it afterwards gave up to them §.

Δασμός, the word made use of in this passage by Xenophon, and since used in the same sense by Demosthenes and Isocrates, signifies properly distribution, and, by an extension of its signification, tax, either real or personal.

In Dionysius of Halicarnassus, who ascribes a Greek origin both to the Romans and Latins, Servius Tullius declines giving the metropolises an absolute power over the colonies*: Τὸ γὰρ ἄρκειν ἐκ πάντος τῶν ἀπάντων τὰς Μητροπολεις, ὡς ἀναγκαῖον τὴ φύσιος νόμιμον, ἥτε ἀληθες, ἥτε δίκαιον. For that the mother cities should have a despotic power over all the inhabitants of their colonies, should be inculcated as

§ Κοτυωρίται γὰρ ἔτοι εἰσὶ μὲν ἡμέτεροι ἀποικοὶ καὶ τὴν χώραν ἡμεῖς αὐτοῖς ταύτην παραδεδώκαμεν. βαρβάρους ἀελλόμενοι; διὸ καὶ δασμὸν ἡμῖν φέρουσιν ἔτοι τεταχμένον καὶ κεράσυντιοι καὶ τραπιζέντιοι ὄσαντες.

“For those Cotyorans are a colony of ours, and we ourselves gave them that ground, taking it from the barbarians: for this reason likewise they are said to be obliged to pay us a tax.”

Retreat of the Ten thousand, by Xenophon.

* See the whole discourse, & Strabo, l. 5.

a law of nature, is neither reasonable nor just *.

* Grotius, l. ii. c. 9. *Quomodo imperia vel dominia definant*, "Of the Manner in which Empires or Kingdoms end," compares the state of colonies to that of the parts of an empire at variance, or in concord merely by the force of arms: *Novus populus sui juris nascitur*, "a new people which is its own master springs up."

Cæcina was the first Roman colony under Romulus. Tacitus speaking of the Roman colonies in the life of Agricola says: *apud imperitos illud humanitas vocabatur, cum pars servitutis esset*. "This was called politeness and humanity by the ignorant, tho' it was in fact a species of servitude."

A P P E N D I X.

N U M B E R IV.

TH E article of the Moravians, in the first volume, requires a farther explanation: the gentleman, whom the author mentions as his conductor, has favoured the translator with the following remarks, in order to rectify some mistaken notions concerning the religious principles of those people, which the author, he says, must have picked up from books or from prejudiced persons, and not from his conductor.

The house which Mr. H. shewed to our author, is called Lindsey-house, being built upon a spot of ground which formerly belonged to the Ancafter family. It was not chosen nor built by count Zinzendorf, neither was it intended as a house of probation or a noviciate for the Moravian brethren, but as a lodging-house to accommodate the foreign nobility and gentry of their persuasion, who from time to time might think proper to pay a visit to England. Mr. H. denies that count Zinzendorf was the founder of their sect; it had been founded many ages before by the Vaudois, and the Moravians. A considerable number of the

Moravian refugees having taken shelter on the count's estate in Lusatia, built the village of Hernhuth, where they enjoyed their primitive discipline, and were afterwards joined by several others, who approved of their manner of living. To return to Lindsey-house, the pictures on the stair-case are all relative to the history of these people. The negro in a white shirt is a catechumen, or a candidate for a baptism, according to the ceremonies of the primitive church. The person preaching to the slaves, was an honest man, who went over to Algiers a missionary, and there died of the plague. There is no allusion to a miracle in any of the pictures: the man cast upon the rock is saved by means of a boat sent to his assistance from a ship, which appears at some distance: with regard to the religious principles of these people, they have no particular notions concerning the Old Testament, but are in the same way of thinking upon this article as the Protestants of the confession of Augsburg. Neither have they any particular doctrine about marriages, different from that of other Christians. Nor do they boast of any raptures, or extraordinary communications with God. They live not in common, nor are their profits and gains thrown into the common stock. The young girls do not work in common in Holland.

James le Long was a dutchman; he was never a director or chief of any Moravian settlement, and he lived all his life at Amsterdam. The conversation between count Zinzendorff and lord Chesterfield, is discredited by Mr. H. who believes that the count never was at Plymouth, and is very positive he nei-
ther

ther swore by his God, nor pretended ever to any miracle. He therefore laughs at a story which is told of a crab bringing to one of the Moravian missionaries his New Testament which had dropped into the sea. This is the idle story, he says, of Francis Xaverius, falsely charged to this sect. The Moravians have embraced the confession of Augsburg, they have no adepts, nor do they make any mystery of their principles, even to the common people. No body is expelled their society for not paying a blind submission to their orders, much less to their signs. There never was a society in which greater regard is paid to liberty in innocent matters, and where conscience can more freely assert its rights. Good order and regularity reign in their assemblies. This is what Mr. H. says in defence of his brethren; and here the reader having heard *alteram partem*, may decide as he thinks proper. I should be inclined, however, to give credit to the declarations of any society of men, concerning their religious principles, in preference to common report. Those who are versed in church-history, must be sensible of the strange and absurd notions which the Pagans entertained of the religious ceremonies of the primitive Christians, whom they charged with the sacrifice of infants, and with all manner of lewdness and debauchery at their nocturnal assemblies.

A P P E N D I X.

N U M B E R V.

Translation of a Letter from the Author to the
Translator.

S I R,

Troyes, Aug. 1, 1770.

MY bookseller at Paris has just sent me the translation you have done me the honour to make of my Observations on Italy and its Inhabitants. I want words to express my gratitude for the many obliging things you have been so kind as to say of me in your Preface. If I am not like the picture, I must endeavour to make myself so.

Perhaps you have already received the account I have just published of my tour to London; I should think myself exceedingly happy were the English to give it the same reception the Italians have done to my account of their country. I must depend on you, Sir, to usher it into the world in an English dress. The trouble you have been at to do my first work that honour, gives you an undoubted right over the second.

In conformity to my own taste, I have, in this last work, preferred the style and manner of
Addison

Addison to that which has been introduced and now universally prevails amongst us in France. The pretty frequent citations I have allowed myself, have a Gothic air here; but they may, perhaps, be looked upon with another eye in England.

A copy of my work, bound in Morocco, I have desired my bookseller to send to London, in order to be presented to the Royal Society, who have done me the honour to elect me one of their members. It is but a slight testimony of my gratitude, for my gratitude itself does not, I assure you, fall short of the favour.

I should be very much obliged to you, Sir, if you would be so kind as to throw an eye over my performance; and give me notice of the errors you may find in it, from my intelligence having been sometimes false, or my not having always comprehended it when true.

To conclude, Sir, I must beg the favour of you to thank your polite and learned Society of Antiquaries for their kindness in admitting me, during three or four of their meetings, to a sight of the antiquities of Athens and Sparta. I frequently think of those beautiful pieces with equal sentiments of gratitude for those gentlemen who had the courage to go and dig them up, on the spot; and those who, with so much goodness, procured me the pleasure of examining them.

I have the honour of being, with the most respectful attachment,

S I R,

Your most humble and

obedient servant,

GROSLEY.



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